

Federal Issues Update
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Summary

The following is a summary of recent federal activities, including federal funding for Fiscal Year 2012, the reauthorization of the Elementary and Secondary Education Act and recent activities regarding federal privacy. Congress has been in recess since mid-December and is scheduled to reconvene on January 23, 2012.

Background and Analysis

FY 2012 Funding Bill

Hours before the Continuing Resolution (H.R. 2112) was set to expire on December 16, Congressional leaders negotiated an agreement for a final Fiscal Year (FY) 2012 appropriations bill (H.R. 2055) that includes funding for education programs. Overall, the bill funds nearly three-fourths of all federal government operations. H.R. 2055 was passed along with two additional measures - a bill for disaster relief and recovery (H.R. 3672) and a bill imposing an across-the-board cut of 0.189 percent to most programs as an offset to pay for the disaster relief efforts.

The 1.5 percent cut to the next round of funding for Title I grants, special education and career and technical education grants that was included in the earlier stopgap funding measure (H.R. 2112) was removed from the final appropriations bill (H.R. 2055). Therefore, grants from the U.S. Department of Education should reflect their initial funding levels, minus the 0.189 percent across-the-board cut legislated for disaster relief efforts.

The House passed the final appropriations bill (H.R. 2055) by a vote of 296 to 121. The Senate approved the measure a day later on a vote of 67 to 32. The President then signed the bill on December 23, 2011.

H.R. 2055 provides slight funding increases for some education programs while eliminating or decreasing funding for others. After the across-the-board cut of 0.189 percent is applied, Title I grants are funded at \$14.5 billion, just about level funding from FY 2011. Special education grants receive a \$78 million increase for an overall allocation of \$11.57 billion. Funding for Impact Aid is \$1.29 billion, inclusive of an \$18.5 million increase; and, funding for Teacher Quality State Grants is \$2.46 billion, a \$4.7 million reduction from FY 2011. The allocation for Teacher Quality State Grants includes approximately \$37 million for competitive awards for teacher and principal training or professional development to national non-profit organizations. The FY 2012 consolidated appropriations bill also funds Race to the Top at \$548.9 million, more than a 20 percent decrease from the current level of \$698.6 million. The legislation states that the

Race to the Top program is to include "a robust early childhood education component." Investing in Innovation grants will receive \$149.4 million, a decrease of \$283,000. Career and Technical Education grants will be funded at \$1.12 billion; and, English Language Acquisition grants receive \$732 million. Rural Education grants will receive \$179 million.

Race to the Top – Early Learning Challenge (RTTT-ELC) Grants

The White House announced the first RTTT-ELC grants to nine states on Friday, December 16. RTT-ELC is a \$500 million grant competition for states established in the FY 2011 Continuing Resolution. States will receive awards of \$50-\$100 million to create comprehensive plans to transform early learning systems with better coordination, learning standards, and workforce development. Thirty-five states plus Puerto Rico and the District of Columbia applied for the funds. Recipient states are: California, Delaware, Maryland, Massachusetts, Minnesota, North Carolina, Ohio, Rhode Island and Washington.

The Race to the Top-Early Learning Challenge website (<http://www2.ed.gov/programs/racetothetop-earlylearningchallenge/index.html>) provides Education Secretary Duncan and Health and Human Services Secretary Sebelius' letter to the Governors, Peer reviewers' comments and scores for all applications and a list of peer reviewers together with brief biographies.

Reauthorization of the Elementary and Secondary Education Act (ESEA)

The issue of ESEA reauthorization is still plodding along in Congress. On January 6, the House Education and Workforce Committee Chairman John Kline (R-MN) released draft legislation to revise No Child Left Behind's accountability and teacher effectiveness components (<http://edworkforce.house.gov/News/DocumentSingle.aspx?DocumentID=273999>). These two bills will complete Rep. Kline's five-piece bill package to reauthorize ESEA which provides a targeted approach to revamping current law.

The other three bills in Kline reauthorization package are:

- HR 1891 (Hunter [R-CA]) - to eliminate duplicative and ineffective programs within ESEA
- HR 2218 (Hunter [R-CA]) - to promote more rigorous charter schools
- HR 2445 (Kline [R-MN]) - to block grant K-12 funds to states and districts

As of now, the only bill that has passed the full House and been sent to the Senate is HR 2218. HR 1891 and HR 2445 were passed out of committee but only on a party line vote. It appears that with the introduction of Rep. Kline's final two bills any chance of a bi-partisan reauthorization effort in the House is slipping away.

Last October, Senator Tom Harkin (D-IA) introduced draft legislation to reauthorize ESEA. The draft bill passed out of the Senate Health, Education, Labor and Pension Committee (<http://help.senate.gov/hearings/hearing/?id=b4d24a56-5056-9502-5d73-a45a120b096b>) on a bi-

partisan vote. However, the bill is currently sitting on the Senate Floor and chances of it being taken up before the 2012 election are dim. Senator Harkin has said that he will not try to move his own legislation unless a bipartisan counterpart is produced in the House.

Recently a group of moderate Democrats in the House of Representatives, known as the “New Democrat Coalition” released a framework detailing various policy items that they would like to see in an ESEA reauthorization proposal. The group’s education task force proposal, chaired by Representatives Susan Davis (D-CA) and Jared Polis (D-CO), includes priorities for universal access to a quality, well-rounded education for all students, ensuring that they graduate from high school well-prepared for college and jobs, having an outstanding educator in every classroom and supporting innovative and creative approaches to improve student learning. More information on the New Democrat Coalition report can be found at: <http://newdemocratcoalition-crowley.house.gov/issue/education>.

Family Educational Rights and Privacy Act (FERPA)

Last week, the U.S. Department of Education (USDOE) released final regulations to safeguard student privacy under FERPA. The new rules provide states with the flexibility to share school data that can be helpful in judging the effectiveness of government investments in education, without compromising a student’s right to privacy. According to the USDOE, the new rules will increase the agency’s ability to hold those who misuse or abuse student data accountable and ensuring taxpayer funds are invested wisely and effectively. Originally proposed in draft form back in April, these regulations will go into effect as of January 3, 2012.

The new rules specifically allow state educational authorities, which include traditional State educational agencies (SEAs), to enter into agreements with research organizations for studies that are for one or more of the enumerated purposes under FERPA, such as studies to improve instruction. This regulatory change is thought to be beneficial as it will reduce the administrative costs of, and reduce the barriers to, using personally identifiable information from education records in order to conduct studies to improve instruction in education programs. Another new rule would require written agreements when FERPA-permitted entities designate an authorized representative (other than an employee) to have access to education records in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs.

For more information on the final FERPA rules, you can view the notice in the Federal Register here (<http://www.federalregister.gov/articles/2011/12/02/2011-30683/family-educational-rights-and-privacy>).

Federal Relations Network Conference

Just a final reminder that NSBA’s Federal Relations Network Conference (FRN) will be held February 5-7, 2012 in Washington, D.C., more information can be found here (<http://www.nsba.org/frn2012/>) You can register for the conference at <http://www.csba.org/en/LegislationAndLegal/Legislation/FRNConference.aspx>. The following

are NSBA's Top Ten Reasons you should attend FRN this year (<http://www.nsba.org/frn2012/top10.htm>).

- **Join 900+ school board members** and speak as one collective voice to advocate for education policies that are far reaching - affecting schoolchildren not only in your district but nationwide.
- **Participate in a conference that has a proven success record and provides a true Return on Investment (ROI) that will far exceed the cost of attending the meeting.** When the stimulus bill was wavering in the Senate in 2009, 900+ school board members marched on Capitol Hill at FRN which reignited the Congressional debate, and resulted in the successful passage of \$100 billion for school districts. The same could happen with ESEA reauthorization and federal funding decisions.
- **Directly impact ESEA/NCLB reauthorization negotiations.** Congress is on course to make decisions in early 2012 that will significantly impact *student learning, school district operations and school board policies for the next 6 years*. FRN members will be in Washington, D.C. at a pivotal time to help shape the reauthorization of ESEA.
- **Significantly influence federal funding decisions for your school district.** The Budget Control Act, the proposed American Jobs Act, and funding for Fiscal Year 2013, which all impact school districts' capacity to advance student achievement, fulfill federal mandates, and retain effective teachers and staff to ensure successful education programs will be addressed in early 2012. The school board voice must be heard by Congress during these key negotiations.
- **Demonstrate the effective role of local school boards – especially as public education is under attack by those who want to privatize it.** The U.S. Department of Education and some members of Congress are actively seeking alternatives to local school board governance, as they voice support for expanding charters, mayoral takeovers, and nationwide policies in such areas as testing and teacher and principal evaluations. School board members need to vigorously address these issues on Capitol Hill.
- **Advance the value of public education** and ensure that Congress supports initiatives for 21st Century learning in K-12, pre-K, teacher and principal effectiveness, school safety, and child nutrition.
- **Become a resource to your board on federal programs that may affect your district** such as the newly proposed U.S. Department of Education's state waivers from the requirements of No Child Left Behind (NCLB).
- **Take your advocacy skills to the next level.** Learn advocacy and communications strategies to further your efforts at the national, state, and local levels. Put the strategies and tactics to work in meetings with members of Congress and their staff during *NSBA's Day on Capitol Hill* on Tuesday, February 7, 2012.
- **Be a face for school districts on Capitol Hill.** Share your expertise on the implementation of policies in your school district. Your members of Congress will rely on you to let them know what education policies work—and don't work—for their constituents back home.
- **If you don't speak for your students on Capitol Hill, who will?**