

THE VIEW FROM WASHINGTON: FEDERAL UPDATES FROM YEAR ONE OF THE NEW ADMINISTRATION

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February 2018

CONGRESS

APPROPRIATIONS DRAMA

Continuing Resolutions:

- 1: October 1 through December 8th
- 2: December 9th through December 23rd
- 3: December 24th through January 19th
- 4: January 22nd through February 8th



APPROPRIATIONS DRAMA

Key subject-matter hurdles:

- Spending caps for remainder of FY 2018, FY 2019
- Children's Health Insurance Plan (CHIP)
- Immigration
 - Deferred Action for Childhood Arrivals (DACA)
 - Additional border security (border wall)
 - Reforming immigration system
 - Merit-based?
 - "Chain migration"

APPROPRIATIONS DRAMA

Key political hurdles:

- Change in Senate balance
 - New Sen. Doug Jones (D-AL) makes balance 51-49
- White House involvement
 - In last week of negotiations, President Trump:
 - Asked for \$18 billion for border wall
 - Suggested Congress bring back earmarks
 - Requested bipartisan deal
 - Got bipartisan deal
 - Rejected bipartisan deal

The Zoo is temporarily closed.

All Smithsonian museums and the National Zoo are closed today due to the government shutdown.

Please visit www.si.edu for updates. We apologize for the inconvenience.



! ALL DELIVERIES MUST GO TO THE CONNECTICUT AVE. ENTRANCE.





NASA ✓
@NASA

Follow



Sorry, but we won't be tweeting/responding to replies during the government shutdown. Also, all public NASA activities and events are cancelled or postponed until further notice. We'll be back as soon as possible! Sorry for the inconvenience.

12:46 PM - 22 Jan 2018

3,587 Retweets **8,747** Likes

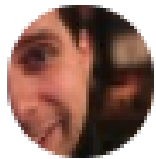


701

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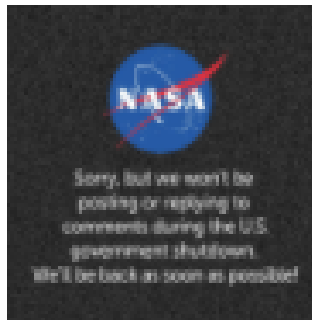
Michael Roston ✓

@michaelroston

Follow



The moon is closed



NASA Moon ✓ @NASAMoon

Sorry, but we won't be tweeting/responding to replies during the government shutdown. Also, all public NASA activities and events are cancelled or postponed until further notice. We'll be back as soon as possible!...

11:48 AM - 22 Jan 2018

24 Retweets 66 Likes



3

24

66





Michael Roston  @michaelroston ·3h

Also the Sun

NASA Sun & Space  @NASASun

Sorry, but we won't be tweeting/responding to replies during the government shutdown. Also, all public NASA activities and events are cancelled or postponed until further notice. We'll be back as soon as possible! Sorry for the inconvenience.



APPROPRIATIONS DRAMA RESOLUTION (KIND OF)

After a 2-day government shutdown, the House and Senate passed legislation to keep the government open through February 8th

- Requires discussion of DACA renewal at a later date
- Accepts extension of CHIP for six more years

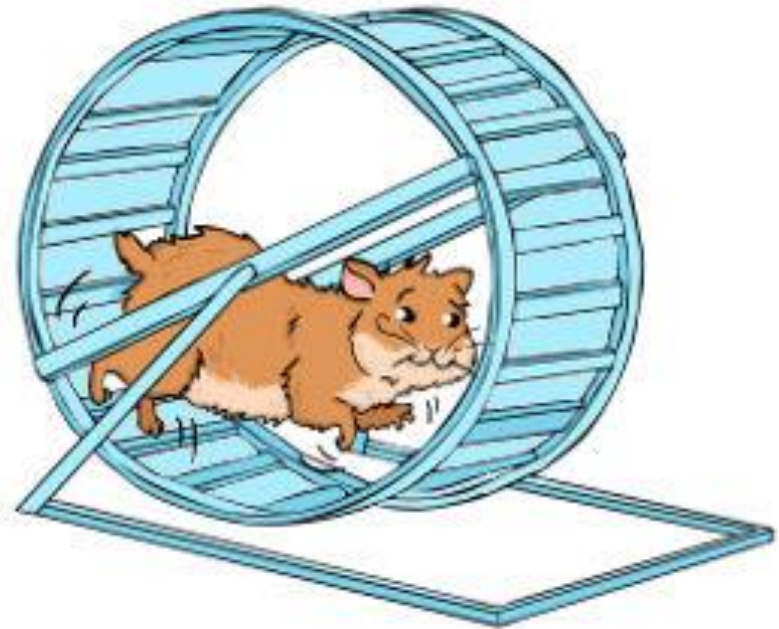
Requires more negotiations in February

ON TO NEXT FISCAL YEAR!

Congress must come to an agreement on FY 2019:

- Top-line budget caps
 - Must fall under sequestration limits
 - SOTU: End defense sequester
- Program-level appropriations

President's budget proposal is due to Congress in early February, around the same time the current CR runs out



APPROPRIATIONS FOR FY 2019

President's budget proposal:

- Rumored to combine three major research programs:
 - State Longitudinal Data System program
 - Regional Educational Laboratory Program
 - Comprehensive Centers
 - ... Into a State block grant
- Will likely also propose more State block grants, cuts to funding for Title IIA, other programs

OTHER LEGISLATIVE PRIORITIES

- Tax reform
- FY 2018 Appropriations
- Entitlement (Social Security, Medicare, Medicaid) reform
- Healthcare “fix”
- Career and Technical Education Legislation
- Higher Education Act Reauthorization
- FY 2019 Appropriations

CURRENT DRIVING PHILOSOPHY

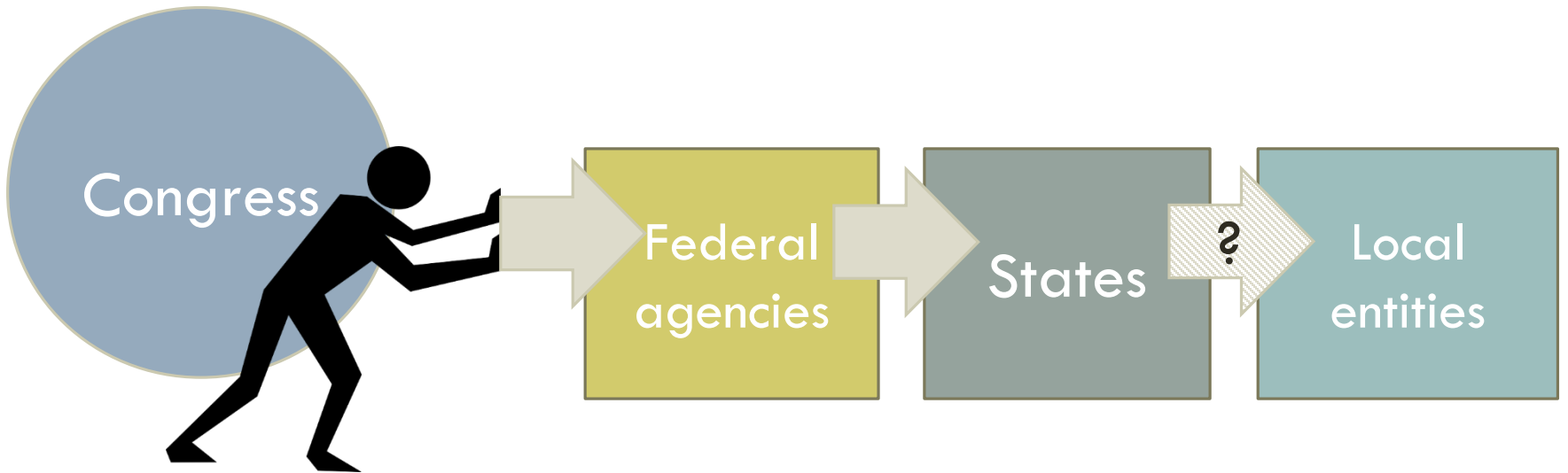
"That government is best which governs least."

(variously attributed to Thomas Jefferson, Henry Thoreau, and the motto of the United States Magazine and Democratic Review)

This means limiting regulations and the scope of federal law, trusting the "market" of individuals to determine the direction of policy

- If the voters disagree with the actions of policymakers, they will vote them out of office
- States may pick up the slack and offer their own regulations/ rules

SHIFTING AUTHORITY



SENATE COMMITTEE BOTTLENECK

Senate Committee on Health, Education, Labor, and Pensions (HELP) is in charge of education legislation

- Committee's agenda this year:
 - Affordable Care Act (ACA) bipartisan healthcare fix
 - Led by Chairman Alexander (R-TN) and Ranking Member Patty Murray (D-WA)
 - Perkins Career and Technical Education Act
 - Led by Chairman Alexander (R-TN) and Ranking Member Patty Murray (D-WA)
 - Reauthorization of Higher Education Act (HEA)
 - Led by Chairman Alexander (R-TN) and Ranking Member Patty Murray (D-WA)
 - Potential “entitlement” (Medicare, Medicaid, Social Security) reform?

HIGHER EDUCATION ACT REAUTHORIZATION

Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act

- Introduced December 2017 in House, passed House Committee with partisan support
- Major changes:
 - Pell “bonus” for heavier courseload
 - Shift all lending to new Federal ONE Loan program
 - Brings 6 repayment options down to 2
 - Eliminates Public Service Loan Forgiveness
 - Allows use of prior-prior year income data for FAFSA, earlier notification
 - Erases several Obama-era rules on student aid

LIKELY LEGISLATION THIS YEAR?



Higher education could see some movement

Then focus on healthcare fix?

K-12 education is not on the list for now

- May be a good thing?

DISTRUST OF IMPLEMENTATION PROCESS?

Senator Patty Murray (D-WA) in HEA reauthorization hearing:

- “Secretary DeVos’s implementation of our bipartisan law [ESSA] has proved problematic. The Department of Education is approving State plans that do not comply with all of ESSA’s guardrails and is now issuing waivers of that law before it is fully implemented.”
- “If we can’t trust our good faith, bipartisan work on the last education law will be implemented well, how can we work together on this bill? That is a question that we’re going to have to grapple with in the months ahead”

ADMINISTRATION



ESSA STATE PLANS: ROUND 2!

First round of State plans submitted in April/May

- First approvals issued over the summer

Second round of plans submitted in September, with feedback received over the holidays

- First round of approvals in January, with more on a rolling basis.

ESSA STATE PLANS: ROUND 2!



Feedback similar to previous rounds

- Some substantive critiques:
 - OK can't create "all remaining students" subgroup
 - TX can't include writing, social studies in achievement
 - AR needs separate indicator for English-language proficiency

ESSA STATE PLANS: ROUND 2!

- More info needed, e.g.:
 - RI, CA, PA must prove they will identify at least bottom 5% of schools
 - HI must describe criteria to exit improvement
 - NE must define English-language proficiency
 - KY must explain how it is calculating grad rates
 - CA must show how it is incorporating 95% testing requirement into accountability
 - PA must show how English language proficiency is included in accountability

STATE FRUSTRATION

DeVos interview on implementation:

- “[T]here are opportunities for states to really implement ESSA in a way that does allow a lot more creativity and flexibility. I’m encouraging states to do so and **not to err on the side of caution, but to really push and go up to the line, test how far it takes to go over it.**”
- Give us less information – streamlining application
- But: “Everybody has to comply with the law. I’m going to approve every plan that complies with the law.

STATE FRUSTRATION

ED not obligated to accept peer reviewer concerns

- But may reflect program officer concerns too?

Differing views on obligation to approve:

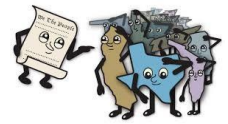
- Congressional Democrats in 9/18 letter: “it is your statutory obligation to only approve plans that meet all the law's requirements”
- ESEA (as amended) Sec. 1111(a)(4)(A): “The Secretary shall... have the authority to disapprove a State plan only if... the Secretary... determines how the State plan fails to meet the requirements of this section”

STATE FRUSTRATION

Lack of guidance!

- States/districts say they need more information on how to implement certain key provisions of ESSA
 - E.g. supplement, not supplant requirements
- Significant pieces of guidance were either:
 - Promised by ED under President Obama and never delivered
 - Rescinded by new administration
- Leaves entities uncertain about which guidance to follow and how to fully implement changes to law





ENDING “EXTRANEOUS” PROGRAMS

- Ending four higher education “experimental sites” effective June 30th (April 2017)
 - Program granted participating institutions of higher education (IHEs) a waiver from certain federal student aid rules (e.g. allowing colleges to limit the unsubsidized loans a student could take out)
- Also ended certain Pell/ work-study initiatives
- Ended socioeconomic diversity grants known as “Opening Doors, Expanding Opportunities”

SUSPENSION OF OBAMA-ERA GUIDANCE/PRACTICES

Guidance on accommodation of transgender students rescinded (February 2017)

- Disagreement on applicability of Title IX protections
- Disagreement on federal role in enforcing student rights
 - “There must be due regard for the primary role of the States and local school districts in establishing educational policy”
- January 2018 resolution of transgender students’ complaints: “OCR determined we do not have subject matter jurisdiction over Allegation 1, inasmuch as the alleged discriminatory conduct you described does not raise any prohibitive bases under the civil rights laws OCR enforces”

OCR AND TRANSGENDER STUDENTS

News story in Huffington Post revealed ED had dismissed discrimination complaints of at least three transgender students

- Administration's argument: gender identity is not covered under Title IX, which prohibits discrimination based on sex
 - Rescinded Obama-era guidance that covered discrimination on the basis of gender identity
- "OCR determined we do not have subject matter jurisdiction over Allegation 1, inasmuch as the alleged discriminatory conduct you described does not raise any prohibitive bases under the civil rights laws OCR enforces"

STATE OF THE UNION

Focus on workforce development, alignment of needs:

- “As tax cuts create new jobs, let us invest in workforce development and job training. Let us open great vocational schools so our future workers can learn a craft and realize their full potential.”



DEVOS ON EDUCATION AND THE ECONOMY

Speech to mayors' conference, January 2018

- “Fundamental disconnect between education and the economy”
 - Especially in tech jobs which require custom certification, e.g. coding
- Cities, need to consider educational options beyond a four-year college degree, including promoting:
 - “Industry-recognized certificates, two-year degrees, stackable credits, credentials and licensures, advanced degrees, badges, four-year degrees, micro-degrees, [and] apprenticeships”

DEVOS ON EDUCATION REFORM

Speech to the American Enterprise Institute, January 2018

The problem:

- “To a casual observer, a classroom today looks scarcely different than what one looked like when I entered the public policy debate thirty years ago. ...Our societies and economies have moved beyond the industrial era. But the data tell us education hasn’t.”
- “Federal education reform efforts have not worked as hoped”
 - “At the U.S. Department of Education, Common Core is dead.”
 - SIG unsuccessful
 - “But most [schools] glossed over those recommendations [for reform]. They simply took the federal money and ran the school the same old way.”
- “False premise” that Washington knows what’s best
 - “Federally mandated assessments. Federal money. Federal standards. All originated in Washington, and none solved the problem.”

DEVOS ON EDUCATION REFORM

Recommendations:

- “The federal government’s appropriate role is not to be the nation’s school board”
 - Provide States additional flexibility to “empower parents and teachers”
 - Provide more information for purposes of transparency/accountability
- Empower parents
 - E.g. through school choice systems, including charter, magnet, and private schools
 - “It’s about freedom to learn. Freedom to learn differently. Freedom to explore. Freedom to fail, to learn from falling and to get back up and try again. It’s freedom to find the best way to learn and grow”
- “Rethink” education
 - Challenge some of the basic assumptions surrounding education
 - Individualized learning, reform starting at school level

DEVOS ON EDUCATION REFORM

Reconsidering fundamental questions:

- Why do we group students by age?
- Why do schools close for the summer?
- Why must the school day start with the rise of the sun?
- Why are schools assigned by your address?
- Why do students have to go to a school building in the first place?
- Why is choice only available to those who can buy their way out? Or buy their way in?
- Why can't a student learn at his or her own pace?
- Why isn't technology more widely embraced in schools?
- Why do we limit what a student can learn based upon the faculty and facilities available?



WHAT DOES THIS ALL MEAN?

Nothing, for now

But watch for

- Adjustments to regulations, guidance, and other policies that:
 - Promote careers, career academies, and two-year colleges (including for-profits)
 - Support non-traditional school models (e.g. charter schools) that operate on different hours/standards in many States through promotion of “school choice”
 - Ask States and districts to “shake up the system”
- Changes to priorities for competitive grants
- Potential use of discretionary funds to promote initiatives that challenge those “fundamental questions”

REALITY CHECK

Potential for change hampered by:

- Concerns about losing federal funding as things change
 - Compounded by uncertain federal appropriations, SALT changes
- Loss of protections for some students?
 - How does expansion of choice protect, e.g., students with disabilities?
- Concerns about accountability for achievement



REALITY CHECK

The U.S. Department of Education does not control education policy!

- It merely acts as a wing of federal government in carrying it out
- Limited by parameters of existing law/programs



CONFIRMATION CONTINUES FOR ED STAFF

Mick Zais (former SC chief) to be Deputy Secretary

Kenneth Marcus to be Assistant Secretary for Civil Rights

James Blew to be Assistant Secretary for Planning, Evaluation, and Policy Development

- ...received Committee approval on 1/18

Frank Brogan to be Assistant Secretary for Elementary and Secondary Education (committee approval 1/25)



QUESTIONS?



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