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WASHINGTON UPDATE

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FY 2011 Appropriations Update: Senate Omnibus Bill Pulled, Short-Term CR Likely

Faced with increasing resistance from Republicans and conservative Democrats, Senate Leadership decided on December 16 not to move forward with a \$1.108 omnibus appropriations bill that would have authorized all federal discretionary funding for Fiscal Year (FY) 2011, including new funding for workforce innovation grants under the Departments of Labor and Education. With the government currently operating under a short-term continuing resolution (CR) that expires December 18, it appears likely that Congress will be forced to settle for another temporary CR through early next year. Final decisions on FY 2011 appropriations will be left to the 112th Congress, when Republicans are expected to push for significant cuts in non-defense discretionary spending.

Democrats had been initially optimistic about passing the omnibus, which would have provided about \$18 billion over FY 2010 funding levels. However, Senate Minority Leader Mitch McConnell (R-KY) and fiscally conservative Republicans expressed strong opposition to the bill, leading a number of moderate Republicans whom had tentatively agreed to vote for the measure to withdraw their support, leaving Senate leadership short of the sixty votes necessary to move to a final vote. Sen. Harry Reid (D-NV) has also indicated that there was insufficient support in the Senate for the [long-term CR passed by the House](#) on December 8, which would have capped overall spending at FY 2010 levels but would have authorized federal funding through September 2011.

The demise of the omnibus represents a significant missed opportunity for the workforce development community. The bill adopted an Administration proposal to create a set of “Workforce Innovation Funds” under the Departments of Labor and Education, which would have supported competitive grants for demonstration and replication projects focused on improving service delivery and participant outcomes through the public workforce system. The omnibus bill also included \$55 million for green jobs



training—an increase of \$15 million over FY 2010 levels—as well as modest increases for a range of other national programs under the Department of Labor (DOL). The omnibus would have boosted funding for state adult education grants by about \$15 million over FY 2010 baseline levels, and would have provided nearly \$25 billion to support Pell Grants, including \$5.7 billion to cover a projected shortfall in current year funding.

It is expected that the new CR will level fund most federal programs at FY 2010 levels, but it is unclear what will happen under the new Congress. Senate Republicans adopted a [caucus resolution](#) in November calling for reductions in federal non-defense discretionary spending to FY 2008 levels—an estimated [22 percent cut](#) from current funding levels—which follows [similar calls](#) from House Republicans earlier this year. Workforce development professionals should be prepared to oppose such efforts and ensure that lawmakers understand the value of job training and education in supporting economic growth and prosperity.

Congress Approves Bill to Extend Tax Cuts, Unemployment Insurance

On December 16, the House approved the [Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010](#) (HR 4853), which extends Bush-era income tax cuts for two years in exchange for extensions of federal unemployment insurance (UI) benefits and a range of other tax breaks. The package, which is based on a compromise framework negotiated by President Obama and congressional Republicans, passed the Senate by a vote of 81-19 on December 15. Many House Democrats opposed the package, particularly provisions extending income tax cuts for households earning more than \$250,000 and an estate tax extension deemed overly costly, but allowed the measure to advance to a vote in exchange for floor consideration of an amendment that would modify the terms of the estate tax provision.

As passed, the bill:

- Extends for two years all of the 2001 and 2003 income tax cuts, which were slated to expire on December 31;
- Revives expanded federal UI benefits authorized under the American Recovery and Reinvestment Act (Recovery Act), and extends them through the end of 2011. The programs expired November 30, and it is estimated that as many as two million jobless workers would have



lost their benefits by the end of the month without an extension;

- Includes a 2 percent cut in federal payroll taxes in 2011. An estimated 155 million workers will benefit from this provision, which is expected to cost about \$112 billion;
- Extends for two years the American Opportunity tax credit, which replaced the Hope tax credit under the Recovery Act, and provides a partially refundable credit of up to \$2,500 for college tuition and fees;
- Extends for two years the exclusion of employer-provided educational assistance of up to \$5,250 from an employee's gross income, and maintains applicability of the exclusion to graduate-level education;
- Extends the \$1,000 child tax credit for two years, and retains the \$3,000 refundability threshold established under the Recovery Act;
- Extends for two years a Recovery Act provision that increased the Earned Income Tax Credit for families with three or more children; and
- Renews the estate tax at a top rate of 35 percent, with an exemption for estates of \$5 million for individuals and \$10 million for joint filers.

While the bill included a number of important provisions— particularly the UI extension and the extension of education-related tax credits— its passage will create significant funding challenges in the months ahead. The Congressional Budget Office [estimates](#) that the bill adds about \$858 billion to the federal deficit, likely increasing political pressure in Washington to focus on spending cuts in FY 2011.

House Approves TAA Extension, Senate Outlook Unclear

On December 15, the House approved a bill (HR 6517) that would extend for 18 months the Trade Adjustment Assistance (TAA) program under the Department of Labor, including provisions that expanded program eligibility for service and public sector workers, significantly increased funding for training services, and authorized a sector partnership grant program for trade-impacted communities.

The provisions, which were originally passed as part of TAA reauthorization under the Recovery Act, are set to expire on December 31, and TAA will revert to pre-Recovery Act funding levels and eligibility requirements if

Congress does not approve an extension before the end of the year. The Department of Labor has issued [guidance](#) to state workforce agencies providing instructions on how to phase out the current program structure if the program is not reauthorized prior to expiration.

Among other things, the bill passed by the House would:

- Maintain current eligibility for service and public sector workers. It is estimated that more than 155,000 additional trade-impacted workers have been made eligible for TAA benefits as a result of expanded eligibility;
- Extend the current funding cap for training at \$575 million for FY 2011, and would authorize a cap of \$431.3 million for the nine-month period beginning October 1, 2011 and ending June 30, 2012;
- Extend the Reemployment Trade Adjustment Assistance (RTAA) program, which provides wage supplements for qualifying workers aged 50 and above;
- Extend the Community TAA grant program under the Department of Commerce, authorizing \$150 million for FY 2011 and \$112.5 million for the nine-month period between October 1, 2011 and June 30, 2012. This program was funded at \$40 million in FY 2010;
- Extend DOL's Industry or Sector Partnership Grant Program for Communities Impacted by Trade, authorizing \$40 million for FY 2011 and \$30 million for the nine-month period between October 1, 2011 and June 30, 2012. This program was not funded in FY 2010; and
- Amend the language authorizing the Community College and Career Training Grant Program (TAACCCT) under DOL, which supports capacity-building grants to community colleges and consortia of postsecondary institutions. The program was originally authorized at \$40 million per year, but received \$2 billion in funding for FY 2011-14 as part of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152). The amendments under the House bill would:
 - Expand participant eligibility under the program to include individuals who are, or are likely to become, eligible for unemployment compensation, or who are unemployed and have exhausted their rights to unemployment compensation;
 - Change the definition of "eligible institution" to exclude proprietary postsecondary institutions;

- Authorize the Secretary of Labor to retain up to five percent of funds for program administration, evaluation, and establishment of reporting systems; and
- Make funds appropriated for the program in any given fiscal year available for that fiscal year and for the subsequent fiscal year.

The bill would also delay implementation of a DOL regulation requiring states to use only state government employees under a merit system to administer TAA programs and activities. The regulation would have required all states to meet this standard by December 15, 2010, but the bill pushes the compliance deadline to December 14, 2012.

The bill now heads to the Senate, where its prospects are unclear; there are reports that Senate Republicans are seeking an agreement to advance pending free trade agreements in exchange for their support on the measure, which may complicate efforts to move the bill before the end of the year.

National Skills Coalition supports reauthorization of TAA in its current form to ensure that as many trade-impacted workers as possible are able to take advantage of training and other benefits, and we encourage Congress to act quickly to ensure that workers and businesses are not harmed by unnecessary disruptions in service delivery under the program.

NSC Weighs in on White House Community College Summit

On October 5, the Obama administration convened the first-ever [White House Summit on Community Colleges](#), bringing together federal and state policymakers and representatives from higher education, business, philanthropy, and student groups to discuss how community colleges can better support the skill needs of workers and industry in the 21st-century economy. Hosted by Dr. Jill Biden, the summit was particularly focused on ways to achieve the President's goal of producing 13 million new postsecondary graduates (including 5 million community college graduates) by the year 2020.

Understanding that achieving the President's vision will require policies and investments that support access and success for a diversity of students, including working and disconnected adults as well as young people coming out of high school, National Skills Coalition weighed in with

[recommendations](#) for policies that will help community colleges fulfill their crucial role in building a skilled workforce:

- Measure and track the attainment of industry-recognized certificates, credentials, and degrees.
- Support the role of community-based organizations (CBOs) and other stakeholders that work in partnership with community colleges.
- Encourage greater linkages between community colleges and the public workforce system under the Workforce Investment Act.
- Target investments in education and training to jobs in the economy by engaging industry through sector partnerships.
- Focus on persistence and completion of, not just enrollment in, high-quality programs.
- Ensure that all students—including “nontraditional” students—are well-served by community colleges.

National Skills Coalition applauds the Administration for their efforts to ensure that every U.S. worker can answer the President’s challenge and looks forward to continued efforts to move policies that will make the vision of America’s return as the most skilled nation in the world a reality.

DOL Releases Preliminary Information on Community College Grants

In October, the Department of Labor released a [fact sheet](#) providing preliminary details on the Trade Adjustment Assistance Community College and Career Training (TAACCCT) grant program, which will provide \$500 million per year over the next four years to help eligible institutions of higher education expand training capacity for dislocated workers and other jobseekers. The grants were originally authorized as part of the broader TAA reauthorization under the Recovery Act, and received significant new funding as part of the Health Care and Education Reconciliation Act signed into law in March 2010. A formal grant solicitation is expected to be released shortly, with awards to be announced by September 2011.

TAACCCT grants are intended to help eligible institutions expand their capacity to meet the skill needs of local or regional industries while increasing attainment of college degrees and other industry-recognized

credentials for TAA recipients and other individuals. Grants will be made available both to individual institutions of higher education and to consortia of such institutions, with at least some funding reserved for consortia that partner across entire communities, regions, states or industry sectors. Grants for individual institutions are likely to range from \$2.5 million to \$5 million, while grants for consortia will range from \$2.5 million to \$20 million. Grant award periods will be up to 36 months from the date of award. By statute, each state will receive at least \$2.5 million in grant awards each year through eligible educational institutions.

Successful applicants must engage at least one employer in grant activities, and DOL is strongly encouraging applicants to partner with CBOs and the public workforce system to implement innovative activities that contribute to project sustainability and success. DOL has indicated that it is interested in projects that use online or technology-driven learning to achieve program objectives.

National Skills Coalition released a [detailed analysis](#) of the TAACCCT statutory language in April 2010, which included changes to the program under the March 2010 reconciliation bill.

Education Department Issues Student Aid Regulations

On October 28, the Department of Education [announced](#) a set of [final regulations](#) designed to crack down on misleading recruitment and marketing practices at for-profit colleges and address a range of other “program integrity” issues associated with federal student loan and grant programs under Title IV of the Higher Education Act. The new regulations are the first of two major rulemakings the Department has been developing over the past eighteen months to address concerns about the use of student aid funding to support occupational training and other education programs, particularly at proprietary schools. The Department will release the second set of regulations in early 2011, and are expected to include a controversial rule that would require most for-profit and some public institutions to demonstrate their programs are preparing participants for “gainful employment” in order to maintain Title IV eligibility.

The October regulations include a range of important changes to rules governing federal student assistance programs, including provisions to:

- Strengthen an existing ban on providing incentives to college recruiters based solely on enrollment, by eliminating a series of “safe harbor” exceptions originally introduced by the Bush administration;
- Require institutions subject to the gainful employment standard to provide prospective students with data on the occupations a program prepares students to enter, the on-time graduation rate of students participating in the program, tuition and other costs associated with the program, and job placement rates and median loan debts for program completers;
- Require institutions subject to the gainful employment standard to provide the Department with data to allow for determination of student debt and post-completion incomes;
- Enhance the Department’s authority to take action against institutions found to have engaged in “substantial misrepresentation” about their educational or training programs; and
- Establish a federal definition of the term “credit hour” for purposes of Title IV funding, based on direct instructional time and out-of-class student work, or an equivalent amount of work in other activities. The rules also require accrediting agencies to establish procedures for determining whether institutional credit hour assignments are appropriate.

While most of the new rules are considered relatively noncontroversial, the decision to define a “credit hour” for federal purposes did raise some concerns from higher education groups, who argued that a rigid definition of the term could limit innovations in service delivery, particularly for working adults and other nontraditional students, as well as interfere with academic decision-making regarding the assignment of credit for various types of coursework. However, the Department argued that the definition was intended only for purposes of determining appropriate levels of financial aid, and that higher education institutions still had significant flexibility to make determinations on credit hours for academic purposes.

The Department had originally intended to release the final “gainful employment” rule at the same time as the other program integrity rules, but [announced](#) in September that they would delay this rulemaking after receiving more than 90,000 comments on the proposal during the public comment period. At issue is a requirement under current law — never defined in statute or regulation — that most programs at for-profit schools

and some training programs at public institutions must prepare students for “gainful employment in a recognized occupation.” The Department [proposed](#) a definition in July which would require programs subject to the gainful employment standard to satisfy a two-part test based on student loan repayment rates and debt-to-income ratios in order to maintain eligibility for Title IV loan or grant programs. The proposal has generated controversy in part because the types of programs impacted by this rule serve a disproportionate percentage of nontraditional and minority students, leading to concerns that postsecondary access for these students might be restricted by the rule as originally proposed.

In September, National Skills Coalition submitted [comments](#) on the proposed gainful employment rule. We expressed strong support for the Department’s efforts to ensure that federal investments in higher education lead to meaningful opportunities for skill development and credential attainment for all students, and cracking down on fraudulent and abusive recruitment practices that encouraged students to take on excessive student loan debt. At the same time, we urged the Department to recognize that the proposed rules are only a first step in addressing the broader postsecondary access and completion challenges facing many hard-to-serve student populations, and encouraged the Department to take additional steps to support career pathways for students across a range of institutions.

TANF Block Grant Program Extended

On December 8, President Obama signed into law the Claims Resolution Act of 2010 (P.L. 111-291), a bill that, among other things, would extend the Temporary Assistance for Needy Families (TANF) block grant program at current funding levels through September 30, 2011. The bill was passed by the Senate on November 19 and by the House on November 30.

The law did not include an extension of the popular TANF Emergency Contingency Fund (ECF), which was created as part of the Recovery Act but expired September 30. Nearly forty states used the ECF to support subsidized employment programs, offering vital job opportunities for more than 250,000 low-income parents and youth, but many states have now been forced to shut down or scale back these efforts.

In addition to extending the regular TANF block grant, the bill limits funding for the regular TANF Contingency Fund (which is separate from the ECF) to

those funds obligated between October 1 and the date of the law's enactment, cancelling out a provision under the CR that provided \$506 million for the contingency fund through the end of FY 2011. The measure extends authorization of TANF supplemental grants to eligible states through June 2011, but limits funding to an amount equal to \$490 million minus the amounts used to cover contingency fund obligations, marking the first time Congress has not fully funded the supplemental grant program.

The bill also requires states to submit two new reports— one covering the month of March 2011, and another covering the period between April and June 2011— providing data on work-related activities engaged in by each work-eligible individual in families receiving assistance, and state expenditures on certain benefits and services. States that fail to submit the reports by the applicable deadlines can be subject to penalties of up to four percent of their block grant allocation.

While the extension was necessary to avoid disruptions in TANF program operations, Congress should work toward a full reauthorization of the program next year that expands access to education and training for TANF recipients to ensure that they have the skills they need to get and keep family-supporting jobs.

ETA Issues Guidance on Increasing Credential Attainment through the Workforce System

On December 15, the Department of Labor's Employment and Training Administration (ETA) issued a [Training and Employment Guidance Letter](#) (TEGL) supporting DOL's "High Priority Performance Goal" to increase the number of degrees, certificates, and other industry-recognized credentials earned through the public workforce system, and identifying strategies for state and local workforce agencies to utilize in helping participants across a range of ETA programs to access and complete training programs leading to credentials with value in the labor market. The TEGL updates the agency's definition of a credential for performance reporting purposes, and clarifies reporting requirements relating to credential attainment for states and other ETA grantees.

The TEGL affirms ETA's commitment to the goal set forth in DOL's 2011 Strategic Plan: "By June 2012, increase by ten percent (to 220,000) the number of people who receive training and attain a degree or certificate through the

following programs: Workforce Investment Act (WIA) adult, dislocated worker, and youth, National Emergency Grants (NEG), Trade Adjustment Assistance (TAA), and Career Pathways,” including Community-Based Job Training grants. The guidance stresses that the goal “reinforces the workforce system’s role in generating access to training options that help workers advance along a career pathway within a specific sector or occupational field,” and indicates that each step along a participant’s career pathway should be designed to lead to the attainment of a stackable and portable credential.

Recognizing that the “certificate” definition currently used for performance reporting purposes is not well-aligned with the use of the term in the education and business communities, the TEGL instead adopts the term “credential” as an umbrella term for postsecondary degrees, diplomas, licenses, certificates, and other certifications. The guidance clarifies that certificates awarded by Workforce Investment Boards (WIBs) and work readiness certificates are not included in the definition, as these do not generally document the attainment of occupational or technical skills. The TEGL also notes that states must report data on credential attainment through the TAA Trade Activity Participant Report (TAPR) and the WIA Standardized Record Data (WIASRD) systems even where the state has a waiver to report common performance measures only for WIA Title I programs.

ETA notes that the percentage of WIA adult and dislocated worker exiters earning a credential declined from roughly 74 percent in Program Year (PY) 2004 to just over 66 percent in PY 2008, and identifies several factors that have driven this decrease, including the declining number of participants receiving training services, the system’s focus on rapid labor market attachment over longer-term training, and limited access to financial aid and supportive services. The TEGL states that the public workforce system can play a critical role in reversing this trend by aligning state and local policy and service delivery models to support increased enrollment in training programs leading to credentials, increasing access to supportive and wrap-around services to allow individuals to persist in and complete training programs, and coordinating with local employers and training providers to identify and develop industry-recognized credentials.

The TEGL suggests a range of strategies that workforce agencies can employ to increase training referrals, shorten training duration to facilitate program completion (including through co-enrollment of low-skilled participants in

WIA Title I and Title II to support participation in integrated adult education and occupational training programs), and leverage supportive services. The guidance also provides recommendations for training staff to identify and evaluate credentials offered by various training providers— a [credential resource guide](#) is provided with the TEGL—and strategies to increase the value of credentials, including through collaboration with industry partners.

National Skills Coalition supports ETA’s efforts to increase credential attainment throughout the public workforce system, and we look forward to working with ETA to help ensure that all workers have access to the kinds of industry-recognized degrees, certificates, and credentials that can lead to well-paying jobs and careers in today’s labor market.