

FY 2022 Omnibus: Summary of Education and Labor Provisions

On Thursday, March 10, the Senate voted 68-31 to pass the \$1.5 trillion FY 2022 omnibus spending bill after months of negotiations. The package, which was passed by the House with strong bipartisan support on Wednesday night, also includes \$13.6 billion in supplemental appropriations to address the crisis in Ukraine. President Joe Biden now has until Tuesday, March 15, to sign the bill.

This client alert summarizes the early and higher education and workforce provisions in the omnibus bill. Overall, Labor, Health and Human Services, Education, and Related Agencies received \$213.6 billion in funding, an increase of \$15.3 billion, or 7.7%, above FY 2021. This includes \$13.2 billion in discretionary appropriations for the Department of Labor, \$108.3 billion for the Department of Health and Human Services and \$76.4 billion for the Department of Education.

Title I – Department of Labor

Overview of Title I: *This title appropriates a total of \$13.2 billion in discretionary funding for the Department of Labor (DOL), an increase of \$653 million above the FY 2021 enacted level. It provides funding for existing programs within the DOL's Employer and Training Administration (ETA), including funding for Workforce Innovation and Opportunity Act (WIOA) state grants, dislocated workers, Native American programs, migrant and seasonal farmworkers, YouthBuild, reintegration of ex-offenders, the Workforce Data Quality Initiative, registered apprenticeships, and Demonstration and Pilot projects. This title also includes funding for Job Corps.*

EMPLOYMENT AND TRAINING ADMINISTRATION

Training and Employment Services

- Provides \$3.9 billion, an increase of \$249 million above FY 2021, for necessary expenses of the WIOA and the National Apprenticeship Act, which includes:
 - \$2.9 billion for grants to states for adult employment and training activities (\$870 million), youth activities (\$933 million), and dislocated worker employment and training activities (\$1 billion).
 - \$301 million for dislocated workers assistance national reserve.
 - \$57 million for Native American programs.
 - \$95 million for migrant and seasonal farmworker programs.
 - \$99 million for YouthBuild activities.
 - \$102 million for ex-offender activities.
 - \$6 million for Workforce Data Quality Initiative.
 - \$235 million to expand opportunities through registered apprenticeships.
 - \$138 million to carry out Demonstration and Pilot projects, including projects that are related to the employment and training needs of dislocated workers, other adults or youth.

- **Impact:** Provides funding for grants to states for adult employment and training activities, youth activities, and dislocated worker employment and training activities, as well as for national programs carried out by the ETA.

Job Corps

- Provides \$1.7 billion for Job Corps, which is the same as the FY 2021 enacted level, for operations; the purchase of passenger motor vehicles; the construction, alteration and repairs of buildings and other facilities; and the purchase of real property for training centers.
- **Impact:** Provides funding for Job Corps program expenses.

Title II—Department of Health and Human Services

Overview of Title II: *This title provides a total of \$108.3 billion for the Department of Health and Human Services (HHS), an increase of \$11.3 billion above the FY 2021 enacted level. It includes funding for grant programs within HHS that target underserved children and families, including \$6.2 billion for the Child Care and Development Block Grants (CCDBG), \$1.7 billion for the Social Services Block Grants (SSBG) and \$13.4 billion for Children and Families Services Programs.*

Payments to States for the Child Care and Development Block Grant

- Appropriates \$6.17 billion, an increase of \$300 million from the FY21 enacted level, to carry out the Child Care and Development Block Grants (CCDBG) Act and supplement state general revenue funds for child care assistance for low-income families.
- Of this funding, \$185 million will be reserved for Indian tribes and tribal organizations.
- The funding level in FY21 was \$5.91 billion.
- **Impact:** Makes funds available for CCDBG grants.

Social Services Block Grant

- Appropriates \$1.7 billion to award grants under the Social Services Block Grant (SSBG) program, which is the same as the FY21 enacted level.
- **Impact:** Makes funds available for SSBG grants.

Children and Families Services Programs

- Appropriates \$13.4 billion, an increase of \$400 million from the FY21 enacted level, to carry out Children and Families Services Programs and any related administrative expenses.
- Of this funding, \$75 million will remain available through Sept. 30, 2023, for grants to states for adoption and legal guardian incentive payments for adoptions and legal guardianships completed before Sept. 30, 2022.
- Of the \$13.4 billion, \$11 billion is allocated to make payments under the Head Start Act, including:
 - \$234 million for cost of living adjustment;
 - \$25 million to implement a Designation Renewal System;
 - \$52 million for quality improvement initiatives, with \$2.6 million available for quality improvement initiatives within migrant and seasonal Head Start programs;
 - \$6 million for the Tribal Colleges and Universities Head Start Partnership Program; and

- \$21 million to supplement funding for research, evaluation and federal administrative costs.
- Of the \$13.4 billion, \$290 million will remain available until Dec. 31, 2022, to carry out Preschool Development Grants as well as a review of early childhood education programs as directed by the Every Student Succeeds Act.
 - Up to 3% of this funding will be available for technical assistance.
- Of the \$13.4 billion, \$787 million is allocated to make payments under the Community Services Block Grant (CSBG) Act.
 - This section also revises the poverty line in the eligibility criteria for the CSBG grant to not exceed 200% of the official poverty line based on the most recent Census Bureau data.
 - Of the \$787 million, \$32 million is allocated to the Secretary of HHS to make grants, loans or guarantees to states and public agencies and private, nonprofit organizations to carry out community development activities.
 - Of this funding, at least \$21 million is allocated for community economic development activities and at least \$11 million for rural community development activities.
 - This section allows entities to carry over remaining CSBG funds into the next fiscal year.
 - Under the section, the HHS Secretary is directed to establish procedures to dispose of intangible assets and program income to permit assets acquired with CSBG funds or income derived from CSBG funds to become the sole property of grantees after a period of no more than 12 years following the end of the grant period.
 - In order to carry out rural community development activities, entities may use intangible assets in the form of loans, equity investments and other debt instruments as well as program income.
 - Funds appropriated for rural community development activities will be available for financing construction and rehabilitation and loans or investments in private businesses owned by community development corporations.
 - The CSBG-related provisions in this section will apply to grant funds made available after Nov. 29, 1999.
- Of the \$13.4 billion, \$200 million is appropriated to award Family Violence Prevention and Services grants to states.
 - Of this funding, \$7 million will be reserved to carry out Specialized Services for Abused Parents and their Children.
- Of the \$13.4 billion, \$1.9 million is appropriated for a human services case management system for federally declared disasters.
- Of the \$13.4 billion, this section appropriates up to \$2 million to improve the Public Assistance Reporting Information System, including grants to support data collection to study the system's effectiveness.
- Of the \$13.4 billion, \$27 million is appropriated to carry out related community funding projects.
- **Impact:** Makes funds available for and increases flexibilities in Children and Families Services Programs.

Title III—Department of Education

Overview of Title III: This title appropriates funds to the Department of Education, totaling \$76.4 billion in discretionary spending. This represents a \$2.9 billion increase in

comparison to FY 2021. Programs funded under this title include K-12 Education, including Individuals with Disabilities Education Act (IDEA) programs; Career, Technical and Adult Education; Student Financial Assistance; and Higher Education. Education agencies can apply for these funding and grant award opportunities to, among other things, modernize or renovate school infrastructure and accommodate necessary administrative costs to address the needs of disadvantaged student populations.

Special Education

- Provides over \$14.5 billion, an increase of \$400 million from FY 2021, over the next two years for the implementation of IDEA and the Special Olympics Sport and Empowerment Act of 2004.
- Modifies IDEA so states may use funds allotted under section 643(c) of IDEA to make subgrants to local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to carry out activities authorized by section 638 of IDEA.
- Modifies IDEA by establishing that states may use funds received under section 633 of IDEA to offer continued early intervention services to a child who previously received services under part C of IDEA from age 3 until the beginning of the school year following the child's third birthday, without regard to the procedures laid out in section 635(c) of IDEA.
- **Impact:** Makes funds available for IDEA and the Special Olympics Sport and Empowerment Act of 2004.

Career, Technical, and Adult Education

- Provides \$2.1 billion, an increase of \$100 million from FY 2021, to carry out implementation of the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act) and the Adult Education and Family Literacy Act (AEFLA).
- Sets aside \$13.7 million of AEFLA funding for national leadership services.
- **Impact:** Makes funds available for the Perkins Act and AEFLA to provide increased CTE State Grants and Adult Education State Grants.

Student Financial Assistance

- Provides \$24.6 billion, the same as in FY 2021, to carry out sections of title IV of the Higher Education Act of 1965 (HEA).
- Establishes a maximum Pell Grant of \$6,895, an increase of \$1,460 from FY 2021, for the award year of 2022-2023.
- Provides \$895 million for the Federal Supplemental Educational Opportunity Grant program.
- Provides \$1.21 billion for Federal Work Study.
- **Impact:** Makes funds available for HEA to increase the maximum Pell Grant award by \$400, the Federal Supplemental Educational Opportunity Grant program by \$15 million and the Federal Work Study program by \$20 million above FY 2021.

Student Aid Administration

- Provides \$2,033,943,000, available through Sept. 30, 2023, an increase from the FY 2021 allocation of \$1,853,943,000, for federal administrative expenses under part D of Title I, subparts 1, 3, 9, and 10 of part A, and parts B, C, D, and E of Title IV of the HEA, and subpart 1 of part A of Title VII of the Public Health Service Act.
- Directs the Secretary of Education to allocate new student loan borrower accounts to eligible student loan servicers depending on their 1) past performance compared to the common metrics of all loan servicers, and 2) capacity of each servicer to process new and existing accounts.

- Allows student loan borrowers who are consolidating federal student loans to select from *any* student loan servicer to handle their new consolidated student loan accounts if the student loan contracts were awarded prior to Oct. 1, 2017.
- Allows the Secretary of Education to award funding for contract solicitation in a new federal student loan servicing environment only if the environment is conducive to the participation of multiple student loan servicers that contract directly with the Department of Education to manage a unique portfolio of borrower accounts throughout their full lifecycle.
- Requires the Department of Education to reallocate accounts when servicers are noncompliant with Federal Student Aid (FSA) guidelines, contractual requirements and applicable law, including a failure to sufficiently inform borrowers of repayment options available, on a recurring basis.
- Requires loan servicers to be evaluated on their ability to meet contract requirements, understand federal and state law, future performance on contracts, and history of compliance with applicable consumer laws.
- Requires FSA to hold prime contractors accountable for meeting the requirements of the contract and ensuring their subcontractors do the same.
- Requires that any new loan service environments created by the FSA must incentivize more support to borrowers at risk of delinquency or default.
 - Requires that any new contractors be held accountable for service level performance, maintain compliance with applicable consumer protection laws, and have the relevant experience and effectiveness to be a contractor.
- Requires the Secretary of Education to provide quarterly briefings to the House committees on Appropriations and Education and Labor and the Senate committees on Appropriations and Health, Education, Labor, and Pensions on the general progress pertaining to the servicing contracts sought by the FSA for federal student loans.
- Requires FSA to expand the publication of their aggregate data related to student loans and student loan servicer performance to increase transparency.
- Mandates FSA provide the House and Senate Appropriations committees a detailed plan for how they intend to spend their funds available for FY 2022, and to provide further quarterly updates on the plan, including contracts awarded, changes ordered, bonuses paid to staff, and reorganization of costs as they occur during FY 2022.
- **Impact:** Increases transparency and compliance requirements for student loan contract servicers and promotes the protection of student borrowers who are at risk of default or delinquency.

Higher Education

- Provides \$2,994,111,000 in funding, of which \$76 million will be available through Dec. 31, 2022, as compared to the FY 2021 allocation of \$2,541,661,000, of which \$96 million was available through Dec. 31, 2021, under Titles II, III, IV, V, VI, VII, and VIII of the HEA, the Mutual Educational and Cultural Exchange Act of 1961, and section 117 of the Perkins Act.
- Funds made available to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be allotted to support visits and studies in foreign countries by students who are:
 - Participating in advanced foreign language training and international studies in areas that are vital to the United States national security, and
 - Plan to apply their language skills and knowledge in fields of government, professions or international development.
- Allots 1% of the funds to be used for program evaluation, national outreach and information dissemination activities.
- Allots 1.5% to be used for evaluation.

- Section 313(d) of the HEA does not apply to an institution of higher education that is eligible to receive funding under Section 318.
- The funds provided to carry out Section 419N of the HEA may be awarded in compliance with the limitations under section 419(b)(2).
- Funds of \$249.4 million under this title are allotted for the projects, and in the amounts specified under "Community Project Funding/Congressionally Directed Spending." None of these funds are subject to section 302 of this act.
- **Impact:** Allots funds for students studying abroad for foreign language training and provides limitations for the usage of funds allotted.

Departmental Management Program Administration

- Provides \$349,907,000, of which up to \$7 million is available until expended, which is a decrease from the FY 2021 allocation of \$430 million, for the rental of conference rooms in the District of Columbia and the hiring of three passenger motor vehicles, to be allocated for the renovation and repair of leased buildings.
- Disallows the use of the funds provided to the Department of Education to be used to implement a reorganization that decentralizes, reduces staffing levels, or alters the responsibilities, structure, authority or functionality of the Budget Service of the Department of Education relative to the organization and operations of the Budget Service as effectuated on Jan. 1, 2018.
- **Impact:** Maintains the staffing level and structure of the Budget Service within the Department of Education.

Office of Civil Rights

- Awards the Office of Civil Rights \$135.5 million to cover necessary expenses.
- The Office of Civil Rights was appropriated \$131 million in FY 2021.
- **Impact:** Authorizes funding for the Office of Civil Rights.

Office of Inspector General

- Awards the Office of the Inspector General \$64 million, of which \$2 million shall remain available until expended, to cover necessary expenses.
- The Office of the Inspector General was awarded \$63 million in FY 2021.
- **Impact:** Provides funding for the Department of Education's Office of the Inspector General to enable more oversight to be conducted on the implementation of Department of Education funding, programs and operations. This may result in the potential to prevent and/or correct unlawful/improper activity associated with programs and funding allocated by the Department of Education.

General Provisions

Section 301

- States that none of the appropriated funds may be used to prohibit the carrying out of programs connected to voluntary prayer and meditation within public schools.

Section 302

- Allows no more than 1% of discretionary funding to be transferred between appropriations, so long as such transfers do not increase such appropriations by more than 3%.
- Such transfers shall not be utilized to implement new programs or allocate money set aside for projects or activities for which no funds are provided.

Section 303

- Provides that appropriated funds shall be available from July 1, 2022, through Sept. 30, 2023.

Section 304

- Allows institutions of higher education that maintain an endowment fund supported with funds appropriated for title III or V of the HEA for FY 2022 to utilize such income to award scholarships.

Section 305

- Substitutes "2022" for "2021" in Section 114(f) of the HEA.

Section 306

- Substitutes "2022" for "2021" in Section 458(a)(4) of the HEA.

Section 307

- Allows funds appropriated under the "Student Aid Administration" heading to be made available for payments for student loan servicing to higher education institutions that service outstanding Federal Perkins Loans.

Section 308

- Rescinds \$1,050,000,000 of unobligated balances available under the "Student Financial Assistance" heading.

Section 309

- Rescinds \$85 million of the amounts appropriated under section 401(b)(7)(A)(iv)(XI) of the HEA of 1965 for FY 2022.

Section 310

- Allows \$2.3 million from the "Student Aid Administration" section to be used by the Secretary of Education to conduct outreach to loan borrowers who may intend to qualify for loan cancellation to ensure borrowers are meeting the terms and conditions of such loan cancellation, provided that the Secretary of Education specifically conducts outreach to borrowers who would qualify except that they have made some, or all, of the 120 required payments under a repayment plan that is not described under section 455(m) of the Higher Education Act of 1965.
- The Secretary of Education shall also communicate to all Direct Loan borrowers the full requirements of section 455(m) and improve the filing of employment certification by providing improved outreach and information.

Section 311

- Provides \$25 million, to remain available until expended, for the "Federal Direct Student Loan Program Account," to enable the Secretary of Education to provide loan cancellation to borrowers who would qualify for loan cancellation under section 455(m) of the Higher Education Act except some, or all, of the 120 required payments under section 455(m)(1)(A) do not qualify for purposes of the program because they were monthly payments made in accordance with graduated or extended repayment plans or the corresponding repayment plan for a consolidation loan made under section 455(g) and that were less than the amount calculated under section 455(d)(1)(A), based on a 10-year repayment period.
- Provides stipulations outlining which borrowers may be eligible for such exceptions, as well as requirements for the Secretary of Education to develop and make available a simple method for borrowers to apply for loan cancellation, and parameters around timing for such cancellations to remain available.
- No borrower may, for the same service, receive a reduction in loan obligations under this section and another section in the bill.

Section 312

- Prohibits the Secretary of Education from reserving more than 0.5% from any amount made available for an HEA program, with certain exceptions, including the Pell Grant program. Reserved funds are to be used to carry out rigorous and independent evaluations and to collect and analyze outcome data for programs authorized by the HEA.
- Any funds reserved under this section shall be available through Sept. 30, 2024.
- If under another provision of law funds are authorized to be reserved or used for evaluation activities in connection to a program or project, the Secretary of Education may also reserve funds for the program or project, so long as the total reservation of funds does not exceed any statutory limits on such reservations.
- The Secretary of Education has 30 days prior to the initial obligation to submit to the House and Senate committees on Appropriations, Senate Committee on Health, Education, Labor, and Pensions, and House Committee on Education and Labor, a plan that identifies the source and amount of funds reserved, and the activities to be carried out with such funds.

Section 313

- Appropriates \$140,480,000, in addition to funds under the "Innovation and Improvement" heading, to carry out projects specified in the table titled "Community Project Funding/Congressionally Directed Spending."

Section 314

- Allows the Secretary of Education to waive requirements under section 435(a)(5)(A)(i) and 435(a)(5)(A)(ii) of the HEA for the purpose of carrying out section 435(a)(2) of the HEA, for higher education institutions that provide associate degrees, are a public institution, and are located within an economically distressed county.
- This applies to higher education institutions that otherwise would be ineligible to participate in a program under part D of title IV of the HEA.
- This section shall be in effect for the period covered by this act and the succeeding fiscal year.

Section 315. Department of Education Appropriations Act, 2022

- This section permanently rescinds any remaining unobligated balances from amounts made available in the second and third paragraphs under the heading "Historically Black Colleges and University Capital Financing Program Account" in title III of division II of the Consolidated Appropriations Act of 2021.