DECIPHERING ASAHP’S ROAD AHEAD
JOHN COLBERT, Esq.
AREAS OF DISCUSSION TODAY

Current state of play in Congress and the Administration

FY 18 funding outlook

Keep an eye out for

2018 elections preview
THE STATE OF PLAY IN CONGRESS
THE STATE OF PLAY IN CONGRESS

One party government – yet continued frustration

Factions

Congress incredibly unpopular – 14% approval rating
WHAT WE HAVE LEARNED SO FAR

House majority is just 24 seats

Freedom Caucus – nearly 40 members, a deal breaker when united.

House Leadership working closely with Freedom Caucus on tax reform legislation. Also seeking support of 18 “Blue Dog” Democrats

Senate Leadership still having trouble getting to 50 votes

Growing number in Congress view the President as an unreliable ally
WHAT WE HAVE LEARNED SO FAR

President has less influence than anticipated with Republican members – has not been able to turn votes.

Administration’s New Strategy – triangulate when necessary.

President successfully worked with Democrats on a FY 17 Continuing Resolution and debt limit extension without engaging Republican leadership.
THE STATE OF PLAY IN CONGRESS

House has passed over two hundred bills that have not been addressed by the Senate.

Majority Leader McConnell (R-KY) blamed for gridlock by conservative leaders. Lowest approval rate of any party leader in Congress – 20%
THE STATE OF PLAY IN CONGRESS

Major reforms elusive
Obamacare repeal stymied

Spending – FY 18 Budget Resolution just beginning to move now

No tax reform yet
THE STATE OF PLAY IN CONGRESS

Voters angry at both parties
63% of Republicans
59% of Democrats
68% of Independents
BUDGET AND APPROPRIATIONS
Congress creates a Budget Resolution that provides top line blueprint for spending.

Appropriations Committee then determines specific funding levels for discretionary programs.
BUDGET RESOLUTION

What is Reconciliation?

Budget Resolution can include “reconciliation” instructions, allowing changes to mandatory programs.

Must show cost savings.

Only requires 50 votes to pass Senate.
BUDGET PROCESS DELAYED

THE CHALLENGE

Only one Budget Resolution can be operational at a time

FY 2017 Budget Resolution was alive until October 1st as was needed to repeal ACA

FY 2018 Budget Resolution – still in progress, needed for tax reform
Without an FY 18 Budget Resolution, Appropriators used draft spending levels to move forward on annual spending bills.

FY 18 Appropriations process not yet completed - currently operating under a CR through December 8th.
FY 18 APPROPRIATIONS — WHERE ARE WE NOW?
PRESIDENT TRUMP’S FY18 BUDGET PROPOSAL

Looking back:
Administration FY 18 proposal - $54 billion in cuts to domestic programs

- 16% cut to HHS ($12.6 billion) – including $5 billion to NIH
- 13% cut to the Dept. of Ed ($9.3 billion).
The good news:

“President proposes, Congress disposes”

Both the House and Senate have largely rejected this budget proposal.
The House Labor-HHS Appropriations bill $5 billion below FY 17 (3% cut)

However, provides $1.1 billion increase for NIH

Maintains Pell grant at $5,920

HRSA cut by 7%

House bill will be low point in FY 18 spending process
FY 18 SENATE LABOR-HHS BILL

- $8 billion (5%) above House levels
- $2 billion increase for NIH
- Increases Pell Grant to $6,020
- Maintains level funding for HRSA

- Senate bill restores House cuts for most programs to current funding levels
FY 18 LABOR-HHS FUNDING

Key Question –
Will there be a FY 18 fiscal deal this year?

It’s necessary to enact a FY 18 Omnibus Appropriations bill

Would need to pass a new law to increase to DOD and domestic programs and break “budget caps”
The good news:

House Labor-HHS Chairman Tom Cole (R-OK) bipartisanship essential in any FY 18 Omnibus deal
**FY 18 LABOR-HHS FUNDING**

The good news: Democratic votes needed in both House and Senate

Omnibus has not passed in House since 2012 without Democratic Support

Appropriations bills require 60 votes in the Senate

Only 52 Republicans in the Senate – need 8 Democrats
FY 18 LABOR-HHS FUNDING

FY 18 – two outcomes:

1. Bipartisan Omnibus Appropriations bill – likely with more funding for both defense and domestic programs

2. Year long CR

Both outcomes are good for education and health programs
The bad news:
FY 18 budget is a reflection of the Administration’s priorities — agencies already told they cannot exceed proposed budget in FY 19.

Caveat — if Administration’s proposal to cut the first year is defeated, much easier to protect core priorities in future years
FY 18 CRYSTAL BALL

FY 18 – Continuing Resolution until December, may need another short term CR

Administration budget cuts rejected

Year end negotiations must be bipartisan
FY 18 TAKEAWAYS TO DATE

Congress is driving agenda

Domestic cuts are not likely to be as deep as sought by the Administration – but a close examination of “what works”

Successful push back in FY 18 key to protect against cuts in future years
THE STATE OF PLAY IN THE ADMINISTRATION
THE TRUMP ADMINISTRATION

Slow confirmation process

Secretary DeVos confirmed, still building team

Secretary Price resigned - Deputy HHS Secretary Eric Hargan now Acting Secretary

HRSA Director George Sigounas appointed
While staffing efforts have been slow — extraordinary pace on regulatory agenda

As of this summer, 860 separate regulations suspended, withdrawn or changed.

President Trump pledge “2 for 1” and “80% overall reduction” in number of regs.
TRUMP ADMINISTRATION AND CONGRESS — MAJOR REGULATORY RELIEF EFFORT

DoED Examples —

Gainful Employment and State Authorization regs put on hold

Sexual assault guidance revised

For profit institutions no longer under microscope
TRUMP ADMINISTRATION AND CONGRESS — MAJOR REGULATORY RELIEF EFFORT

**DoED grantmaking:**
$700 million annually
11 priorities announced — open for comment for 30 days — most are not higher ed related

**Priorities include:**
- school choice
- flexible and affordable skills paths — CBE, partnering with employers, certifications for in demand jobs
- promoting innovation to improve student outcomes
- wraparound services
President’s Health Care Executive Order last week
- Undercuts Obamacare via regulation

- Requires agencies to do new rulemaking to:
  - Allowing Association health plans — avoids Obamacare essential benefits requirements
  - Expanding length of short term catastrophic policies
  - Eliminates cost sharing subsidies for insurers

- More E.O.’s expected in the future
President’s Health Care Executive Order last week

-Critics — undercuts exchanges — left with sicker population base, which will lead to higher overall costs

-Opposes Alexander/Murray bill which:
  -Provides two years of funding for cost sharing subsidies in exchange for more state waiver authority
TRUMP ADMINISTRATION AND CONGRESS — MAJOR REGULATORY RELIEF EFFORT

14 final rules overturned by Congress utilizing Congressional Review Act (CRA)

Only one rule overturned using CRA prior to this Congress
KEEP AN EYE ON
Tax reform will consume agenda for the rest of the year

Other major reauthorizations delayed

Health reform

Infrastructure
KEEP AN EYE ON - CONGRESS

HEA reauthorization
House – led by Education Committee Chair Virginia Foxx (R-NC)
- Rollout expected this fall
- Simplify FAFSA
- Reduce number of loan programs: “One loan, one grant, one work study”
KEEP AN EYE ON - CONGRESS

HEA reauthorization

- Will likely include stronger salary and outcome data collection by institution and major

- Student data held by National Student Clearinghouse, not DoED
HEA reauthorization - House

- Foxx does not want stronger federal role in accreditation

- House Education Committee is currently examining accreditation options.
KEEP AN EYE ON - CONGRESS

HEA reauthorization - Senate
- Bipartisan effort
- Timetable unclear
- Agreement that FAFSA must be fixed

Challenge – many of the lead Republican staff have moved into the Administration
2018 ELECTIONS

PRESIDENT TRUMP’S FIRST YEAR

RATINGS LOWER THAN PREDECESSORS
2018 ELECTIONS

• “Midterms are always a referendum on the party in power.” – Charlie Cook

• The president’s party has lost Senate seats in 19 of 26 midterms

• Lost House seats in 92% of midterms since 1862
2018 Elections

- Democrats strategy - nationalize their races and make them a referendum on Trump and Republican leadership in Congress

- Republicans strategy - localize the race without needlessly antagonizing Trump or his supporters

- Republicans running in 2018 will try to avoid making his or her election a referendum on Washington or Congress
2018 ELECTIONS — DEMOCRATIC TAKEOVER IN SENATE?

• **Today**, Democrats have generic lead of 9% - potential beginning of a wave election

• **However,**
  - Midterms are older, whiter and generally favor Republicans
  - Democrats defending 25 Senate seats, Republicans defending 9 seats
2018 ELECTIONS — DEMOCRATIC TAKEOVER IN SENATE?

• Democrats goal in midterms — recapture majority

• Republicans goal in midterms — gain a 60 seat “filibuster proof” majority

• Both goals may prove elusive in the midterms
2018 ELECTIONS — STABILITY IN SENATE RACES

- Solid Republican
- Likely Republican
- Lean Republican
- Toss Up
- Lean Democrat
- Likely Democrat
- Solid Democrat
2018 ELECTIONS

DEMOCRATS DEFENDING SEATS IN TEN STATES WON BY THE PRESIDENT
2018 ELECTIONS - MOST VULNERABLE SENATORS

Democrats – toss ups
Donnelly (IN)
McCaskill (MO)
Manchin (WV)

Lean Democrat
Nelson (FL)
King (ME)
Heitkamp (ND)
Brown (OH)

Republicans – toss up
Flake (AZ – primary)

Lean Republican
Heller (NV)
2018 ELECTIONS — DEMOCRATIC TAKEOVER IN HOUSE?

• Democrats need to pick up 24 seats to gain majority

• Incumbents run on average 7% ahead in competitive districts

• Only 10 Republican districts currently tilting to Democrats
2018 ELECTIONS — DEMOCRATIC TAKEOVER IN HOUSE?

Last two shifts in the House majority:

- 2010 - 76 Democratic held seats tilting Republican when Republicans regained majority.
2018 ELECTIONS — DEMOCRATIC TAKEOVER IN HOUSE?

• Much fewer chances for Democrats to pick off Republican incumbents this year.

• Democrats will need a host of House Republican retirements in swing districts — only three retiring in swing seats to date.
Two other challenges for Democrats

• Lack of a compelling message — special elections have shown it is not enough to just oppose Trump.
• Who is their leader?
• Gerrymandering of House districts
GERRYMANDERING – DOWN TO 72 SWING HOUSE DISTRICTS

- Democratic (D+5 or greater)
- Swing (Between D+5 and R+5)
- Republican (R+5 or greater)

Democratic: 168
Republican: 195
Swing: 72

'98 '00 '02 '04 '06 '08 '10 '12 '14 '16 '17
ONLY 35 DISTRICTS HELD BY HOUSE MEMBER WHERE THE OPPOSING PARTY’S PRESIDENTIAL NOMINEE WON

- **Democrats**
- **Republicans**

Graph shows the number of districts held by House members where the opposing party’s presidential nominee won:

- **Clinton '93**: Dem 50,GOP 53
- **Bush '01**: Dem 42, GOP 43
- **Obama '09**: Dem 34, GOP 49
- **Trump '17**: Dem 12, GOP 35

The graph indicates a decline in the number of districts held by House members where the opposing party’s presidential nominee won over time.
2020 Election — Battlefield Shifts - Republicans on Defense in Senate

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CRYSTAL BALL

What to expect
Era of narrow Republican majorities until 2020

Wild Cards
Whether President Trump’s low poll numbers will hurt vulnerable Republicans — little evidence to date.

Anti-incumbent mood

Caveat
Only four times in the last century has the party out of power lost seats in a midterm election.
FINAL THOUGHTS

➢ Working with both parties is essential - narrow majorities in Congress for the foreseeable future

➢ HEA reauthorization focused on preparing students for employment – allied health programs in good position due to strong employment outcomes

➢ Deregulation era – voluntary efforts like SARA will be key approaches to issues such as state authorization

➢ ASAHP will continue to be on the front lines protecting allied health
QUESTIONS

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