



H. J. Res. 58 - Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to teacher preparation issues

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FLOOR SCHEDULE:

Expected to be considered on February 7, 2017, subject to a [closed rule](#).

TOPLINE SUMMARY:

[H.J. Res. 58](#) would use the [Congressional Review Act](#) to provide for the disapproval under [chapter 8 of title 5, United States Code](#), of the rule submitted by the Department of Education relating to teacher preparation issues.

COST:

A Congressional Budget Office (CBO) estimate is not yet available.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.J. Res. 58 would provide for the disapproval of the [rule](#) submitted by the Department of Education relating to teacher preparation issues (published at 81 Fed. Reg. 75494 (October 31, 2016)). The rule would require states and institutions of higher education to evaluate their teacher preparation programs according to indicators that are set within the rule. These indicators, which include student growth and student learning outcomes, would be required to be used when evaluating the quality of their teacher preparation programs. New teachers must also be evaluated using four indicators mandated by the rule. The rule also dictates the areas that must be considered by states when evaluating low-performing programs, the actions that must be taken should a program be deemed low-performing, and the consequences for programs that lose state financial support or approval. In the first year, the cost to states is expected to be over \$24 million, with costs to local educational agencies expected to be over \$5.8 million and costs to institutions of higher education expected to be over \$4.8 million.

After the rule was released, Education and the Workforce Committee chairman Rep. John Kline (R-MN) released a [statement](#) regarding the rule, saying “...the department is taking a one-size-fits-all approach that will lead to unintended consequences. It will be impossible to effectively implement this vast regulatory scheme, and it may lead to fewer teachers serving some of our nation’s most vulnerable children.” Some believe that by requiring new teachers to be evaluated by student growth, programs that place teachers in schools with lower-performance outcomes will be disadvantaged, which will lead to fewer teachers in these areas.

The [Congressional Review Act](#) provides an expedited legislative process for Congress to disapprove of administrative rules through joint disapproval resolutions. Regulations issued by executive branch departments and agencies, as well as issued by independent agencies and commissions, are all subject to CRA disapproval resolutions. In [order](#) for a regulation to take effect, the issuing agency must produce a report to Congress. Generally, Congress then has 60 days to pass a resolution of disapproval under the CRA. However, this timeline is shifted in circumstances when rules are submitted to Congress within 60 legislative days of adjournment. In this case, the clock for the 60-day consideration timeline will restart 15 days into the 115th Congress, giving Congress the full window for consideration. While the parliamentarian will determine the exact cut off day after which rules may be subject to the CRA, Congress will be able to consider rules going back to roughly mid-May. Regulations that are successfully disapproved of will then either not go into effect or will be looked at as if they have not gone into effect. The CRA also prevents any new regulation that is substantially similar to a disapproved regulation from being promulgated in the future, absent action from Congress. Rules must be disapproved of on a rule-by-rule basis, and must be disapproved of in their entirety.

Under the CRA process, if a joint resolution is introduced in the Senate within the permitted time period and the resolution is not reported from committee on a timely basis, 30 Senators may petition to bring the resolution to the floor. This resolution would not be subject to the filibuster. When debate commences, the Senate must fully consider the resolution before moving on to any other business, with only 10 hours of debate. Finally, enactment of a joint resolution under the CRA would require a majority vote in each chamber and a presidential signature. Though the CRA has only been used once, in 2000 against Clinton-era ergonomic regulations, conditions today are largely the same as they were that year – with Republicans securing control of the House, Senate, and presidency.

COMMITTEE ACTION:

H.J. Res. 58 was introduced on February 1, and referred to the House Committee on Education and the Workforce.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not yet available.

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, Section I and Article I, Section 8, clause 18.

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