



State of Play: Authorization Bills of the 114th Congress | August 22, 2016

As Congress prepares to return from its seven-week summer recess next month, lawmakers will be faced with a long list of to-dos and limited working days left in the 114th Congress to complete them. So-called “must-pass” legislation will take priority, such as the annual appropriations bills (see COSSA’s July 18 state-of-play report on the [status of the FY 2017 spending bills](#)). What does this mean for the plethora of authorization bills that have been introduced and even passed in the House or Senate over the last year and a half? For many, there simply will not be enough time remaining this year for final negotiations and passage. Others may see last-ditch efforts to send something to the President’s desk before the 114th Congress adjourns at the end of the year.

This report summarizes progress made this Congress on authorizing legislation that COSSA has been reporting on over the last year, including:

- America COMPETES Act Reauthorization ([House](#), [Senate](#))
- Scientific Research in the National Interest Act ([House](#))
- Biomedical Innovation Bills ([House](#), [Senate](#))
- Strengthening Education through Research Act ([Senate](#))

While most are likely to be pushed to the next Congress, they may also serve as jumping-off points for when the topics are taken up again in the future.

Check out COSSA’s full reporting on these and other topics on the [COSSA website](#).

America COMPETES Act Reauthorization (H.R. 1806, S. 3084)

Congress has been working for a number of years to reauthorize the *America COMPETES Act*, which expired in 2013. COMPETES is the vehicle for reauthorizing the National Science Foundation (NSF) and other basic science research agencies as well as STEM education programs.

House Science, Space and Technology Committee Chairman Lamar Smith (R-TX) introduced his version of COMPETES reauthorization legislation in 2015, the *America COMPETES Reauthorization Act of 2015* (H.R. 1806). While improvements were made from earlier drafts, the bill is still seen as a major departure from the original COMPETES legislation enacted in 2007, which sought strategic investments in basic research to set the U.S. apart from its global competitors. Instead, the Smith bill is largely viewed as questioning the motives of NSF and the integrity of its merit review process, and a tool for rooting out supposed waste, fraud and abuse of federal taxpayer dollars. In particular, the bill challenges the value of social and behavioral science research by including dramatic cuts on the order of 45 percent to the Social, Behavioral and Economic Sciences Directorate (SBE) (as well as cuts to the Geosciences Directorate because of its support for climate change research). These cuts would be made in order to bolster funding to the other sciences (i.e. physical, biological, mathematical sciences and engineering). [COSSA](#)

and [others in the scientific and higher education communities](#) opposed the bill. Despite not being able to achieve support from a single national scientific association, H.R. 1806 passed the House of Representatives in May 2015.

Fortunately, instead of simply taking up the House-passed bill, the Senate has taken a much different and more thoughtful approach to the legislation. A bipartisan COMPETES bill was introduced by Senators Cory Gardner (R-CO), Gary Peters (D-MI), John Thune (R-SD), and Bill Nelson (D-FL) in June, called the *American Innovation and Competitiveness Act* (S. 3084). Among the contrasts with the House bill, S. 3084 looks to support—not undercut—NSF’s grant-making infrastructure. In particular, the Senate bill would authorize a 4 percent increase to the NSF budget for fiscal year (FY) 2018 (the House bill kept NSF’s total budget flat). More important than the funding levels, though, is that the Senate bill sticks with current practice when it comes to determining how to fund individual areas of science—that is, to authorize top-line research funding for NSF and allow the agency to determine the appropriate funding levels for its various research lines. As noted, the House bill seeks specific funding levels for NSF’s seven research directorates.

Further, unlike the House bill, which suggests that NSF’s merit review process is flawed because of some of the projects it funds (often in the social and behavioral sciences), the Senate bill reaffirms NSF’s merit review process, stating: “As evidenced by the Foundation’s contributions to scientific advancement, economic development, human health, and national security, its peer review and merit review processes have successfully identified and funded scientifically and societally relevant research and should be preserved.”

Outlook: Given the major differences between the House and Senate bills, we don’t see COMPETES legislation becoming law before the end of this Congress. Still, the introduction of a positive Senate bill provides an important marker for future consideration of NSF legislation in the next Congress. That being said, the future outlook is further clouded by uncertainty about whether the Senate majority will flip after the November elections; it is tough to predict what legislation will be on the Senate calendar without knowing which party will hold the gavel.

More on this topic can be found [here](#).

Scientific Research in the National Interest Act (H.R. 3293)

When it became clear that the Senate would not take up the House COMPETES bill, discussed above, Rep. Smith pulled Sec. 106 out of H.R. 1806 and introduced it as a standalone bill, called the *Scientific Research in the National Interest Act* (H.R. 3293). This bill seeks to set a definition of the term “national interest” to govern the type of research that can be eligible for funding by NSF.

While the bill, which Smith says is intended to ensure that NSF is funding “only high priority research,” is itself rather benign, the intent of the legislation is to continue singling out grants that Smith deems unworthy of taxpayer support, many in the social sciences. This is evident from the [press release](#) issued alongside the introduction of the bill and subsequent remarks made by the Chairman. COSSA issued a [statement](#) on the bill in July.

The bill passed the House of Representatives earlier this year, despite opposition from many in the scientific community and a veto-threat from the White House. Thankfully, the Senate has not expressed interest in taking it up or introducing similar legislation.

Outlook: This bill will not become law this year. It is unclear whether Chairman Smith will reintroduce the bill in the next Congress; however, given the lack of interest in the Senate, it is possible that he will choose to drop it.

More on this topic can be found [here](#).

Biomedical Innovation Legislation/21st Century Cures Act (H.R. 6, 19 individual Senate bills)

During the 114th Congress, both the House and Senate introduced biomedical innovation legislation affecting the National Institutes of Health (NIH) and the Food and Drug Administration (FDA). The House passed its bill, the *21st Century Cures Act* (H.R. 6), in July 2015. H.R. 6 reauthorizes NIH through FY 2018 and allows for steady increases of almost 5 percent each year (a little more than biomedical inflation):

- FY 2016 \$31.8 billion
- FY 2017 \$33.3 billion
- FY 2018 \$34.8 billion

The Senate's medical innovation bills, the companion to H.R. 6, consist of 19 individual bills reported out of the Senate Health, Education, Labor and Pensions (HELP) Committee. The legislation also serves as the means of codifying the President's proposed Precision Medicine and Cancer Moonshot initiatives. Only one of the 19 bills, the *Adding Zika Virus to the FDA Priority Review Voucher Program Act* (S. 2512) has been signed into law (Public Law 114-146).

The *Advancing NIH Strategic Planning and Representation in Medical Research Act* (S. 2745) would amend the Public Health Service Act to require the NIH to develop a six-year strategic plan, in coordination with the institutes and centers, identifying research priorities, including rising public health challenges and emerging scientific opportunities. Another bill, *Promoting Biomedical and Public Health for Patients Act* (S. 2742), would require the NIH Director to submit a biennial report to Congress of NIH activities, including an assessment and details of all of the NIH research supported by the institutes and centers.

The chief obstacle for the Senate has been identifying a source for the one-time funding of targeted NIH priorities, which is needed for floor consideration. Without such a fund, the legislation cannot proceed. Unlike the House Energy and Commerce Committee, which crafted the House version of the bill, the HELP Committee does not have the jurisdiction to draw on petroleum reserves to pay for the spending included in H.R. 6.

Outlook: Supporters and advocates of the legislation remain optimistic that there is still enough time to pass a bill this year. HELP Committee Chairman Lamar Alexander (R-TN) has indicated his desire to get the legislation through the Senate by the end of September. Should Congress fail to pass the legislation before adjourning the 114th Congress, given the bipartisan support for biomedical innovation generally, and for NIH specifically, it is very likely that a version of the *21st Century Cures Act* will be reintroduced in the 115th Congress.

More on this topic can be found [here](#).

Strengthening Education through Research Act (S. 227)

In December 2015, the Senate passed the *Strengthening Education through Research Act* (S. 227), which reauthorizes the *Education Sciences Reform Act* (ESRA). ESRA authorizes funding for the Institute for

Education Sciences (IES) and other programs under the jurisdiction of the U.S. Department of Education. While the bill addresses the long overdue reauthorization of IES and includes some positive provisions, it also shifts the appointment of the agency's National Center for Education Statistics (NCES) commissioner from the President to the IES director. In 2014, eleven scientific organizations, including COSSA, [expressed concerns](#) about a similar provision in a House bill introduced during the last Congress (H.R. 4366, 113th Congress) regarding how this change would affect NCES' autonomy. Those concerns remain. The tables have turned in this Congress, with the Senate having moved a bill while the House has failed to act.

Outlook: Despite Senate passage of S. 227 late last year, the holdup in the House makes it unlikely we will see SETRA legislation or IES reauthorization enacted in the 114th Congress. This too will get bumped to the next Congress.

More on this topic can be found [here](#).

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