The Torch

February 25, 2011

A bi-weekly report from the Coalition of Higher Education Assistance Organizations

COHEAO News

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  COHEAO teleconference series continues with *"Student Loans for International Students."* The event is scheduled for Thursday, March 3 from 2:00-3:15 PM ET.
- **Planning Underway for COHEAO Mid-Year Conference**
  The COHEAO Mid-Year Conference is set for July 30-August 2 in St. Louis, MO and the COHEAO Agenda Committee has already started to develop the conference program.
- **New Section for *The Torch*: Employment Opportunities**
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The Congress

- **FY11 Spending Battle Awaits the Return from Recess**
  Early Saturday morning, the House of Representatives approved a spending plan for FY 2011 that would slash federal spending by $100 billion below President Obama's request for the year.
- **FY11 CR Round One of CFPB Funding Battle**
  The funding of the CFPB remains a hot topic on Capitol Hill, both in the remainder of FY11 and FY12.
- **House Moves to Block Gainful Employment Regs in CR**
  An amendment from Education and the Workforce Chairman John Kline (R-MN) and Rep. Alcee Hastings (D-FL) to prohibit the use of funds to implement, administer or enforce its regulations defining "gainful employment in a recognized occupation" passed by a vote of 289-136.
- **Several Student Aid/Student Loan CR Amendments Offered**
  In addition to gainful employment, there were several amendments related to student aid and student loans filed on the continuing resolution, but most were withdrawn or ruled out of order.
- **Ed and Workforce Committee to Examine Regulatory Burden on Schools**
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- **Warren for Senate?**
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  The U.S. Department of the Treasury announced that the future permanent headquarters of the Consumer Financial Protection Bureau (CFPB) will be located at 1700 G Street, NW in Washington, DC.
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  The Advisory Committee on Student Financial Assistance announced its next meeting will take place on Thursday, March 17 at the Sheraton Hotel in downtown Washington, DC (1201 K Street, NW).

Industry News

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  Minnesota National Guard Captain Lindsey Olson filed a complaint against Citibank, alleging the lender had violated the Service Members Civil Relief Act by instituting a mandatory forbearance on her account while she was on active duty.
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  ACE organized a large number of higher education associations and accreditors in writing Secretary of Education Arne Duncan to express "grave concerns" with the program integrity regulations definition of a "credit hour."
- **A Sign of the Times: HOPE Facing Significant Cuts**
  In addition to California's issues with the Cal-Grant program, significant state cuts to student aid are beginning to receive national media attention due to the proposal to slash one of the most famous state scholarship programs, Georgia's HOPE Scholarship.

Attachments

- **Board of Directors**
- **COHEAO Commercial Members**
- **Special Attachment: Student Loans and the President's FY2012 Budget**

COHEAO News

March 3 COHEAO Teleconference: Student Loans for International Students

COHEAO teleconference series continues with *"Student Loans for International Students."* The event is scheduled for Thursday, March 3 from 2:00-3:15 PM ET.

Jan Hnilica of Wheaton College and Dan Meyers of First Marblehead Corporation will discuss the current challenges many international students face in obtaining the necessary financing for higher education. Meyers will examine the current private loan marketplace for international students and Hnilica will discuss the development and implementation of a specialized loan program for international students.

Additionally, the presentation will provide information on the unique issues associated with the servicing and collection of loans to non-U.S. residents. There will also be time for questions and answers.

To register for this COHEAO teleconference, please visit www.coheao.org and click on the registration link in the gray box on the right side of the homepage.

The costs for this event are $75 for COHEAO members and $125 for non-members. Please contact Wes Huffman (whuffman@wpllc.net) with any questions.

Planning Underway for COHEAO Mid-Year Conference

The COHEAO Mid-Year Conference is set for **July 30-August 2 in St. Louis, MO** and the COHEAO Agenda Committee has already started to develop the conference program.

Committee Chair Larry Rock and his team have convened two meetings to discuss the Mid-Year and are well on the way to creating another informative and engaging conference program. However, we are still in the early stages of agenda development and COHEAO welcomes and encourage session ideas from members. If you have suggestions for a particular session topic or would like to join the COHEAO Agenda Committee, please contact Larry Rock.

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Submit Your Employment Opportunities to *The Torch*

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The Congress

FY11 Spending Battle Awaits the Return from Recess

Early Saturday morning, the House of Representatives approved a spending plan for FY 2011 that would slash federal spending by $100 billion below President Obama's request for the year. No agency was spared and the cuts to education totaled $10.5 billion or 15%.

56 programs would be eliminated and many other high priority initiatives—including Title I, 21st Century Community Learning Centers, Head Start and the Pell Grant program -- would also sustain serious reductions. The Senate's immediate response to the House plan was "no" while the White House threatened the veto pen. Immediately following the vote, where only three Republicans joined every Democrat in opposing the plan, the House joined the Senate in a weeklong recess.

Congress returns to the Capitol on Monday. With the March 4th deadline looming, dueling press releases poured out of House and Senate leadership offices all week long, marking lines in the sand on spending and outlining dire consequences and a convoluted blame game if a government shutdown occurs.

By Thursday evening, with a nod to compromise from the White House, both sides began softening their positions. The Senate Appropriations Committee appears ready to offer to cut up to $8.5 billion in earmarked spending along with many programs already designated for elimination by the Administration's FY 2012 budget proposal. Speaker Boehner also appeared to be stepping back from his "read my lips" promise that the House would not take up a short term continuing resolution unless it included significant spending reductions.

The end game is by no means clear and an official compromise has not been announced. The list of program cuts approved by the House would be a bitter pill for Senate Democrats to swallow but they and the President have conceded that the public wants the federal government to get its fiscal house in order.

As agencies scrambled to put the finishing touches on shutdown plans, advocates for education continue to work hard to make the case to Senators and Representatives that the cuts approved by the House would have painful consequences that threatened the economic recovery.

FY11 CR Round One of CFPB Funding Battle

The funding of the CFPB remains a hot topic on Capitol Hill, both in the remainder of FY11 and FY12.

A reduction in the funding available to the Bureau from the Fed budget, from $134 million to $80 million, is included in the continuing resolution to fund the government through FY2011 that passed the House last weekend. Rep. Rush Holt (D-NJ) offered an amendment to restore funding for the Bureau by shifting resources from another Republican target—the IRS. It failed by a vote of 163-265.

Additionally, House Republicans, arguing there is no role for Congressional oversight with the Bureau, are seeking to subject the CFPB to the standard appropriations process. Rep. Randy Neugebauer (R-TX) introduced legislation to move the agency from the Fed to Treasury, thereby requiring annual appropriations. In response to the proposals, Elizabeth Warren is standing by the Bureau's unique funding structure and accusing Republicans in Congress of "playing politics" with the CFPB budget, which she argues would set a "dangerous precedent."

Click here for coverage of Warren's speech to the Consumer's Union, including the full text, from the *Washington Post*: **http://voices.washingtonpost.com/political-economy/2011/02/elizabeth_warren_speech.html**

House Moves to Block Gainful Employment Regs in CR

There were several amendments filed to the continuing resolution that would have an impact on higher education. Most restore funding for student aid programs or deal with program authorizations and were ruled out of order or withdrawn.

However there is one significant higher education amendment that passed. An amendment from Education and the Workforce Chairman John Kline (R-MN) and Rep. Alcee Hastings (D-FL) to prohibit the use of funds to implement, administer or enforce its regulations defining "gainful employment in a recognized occupation" passed by a vote of 289-136. Here is Kline's statement on the passage of the amendment:

"Today's overwhelming bipartisan vote in support of a new approach to gainful employment is more than a victory for Congress; it is a victory on behalf of students everywhere. Students should be empowered to make an informed decision about their education, and we must ensure they have the information they need without targeting an entire sector of colleges and harming our economy. By blocking the administration's regulation, we prevented an unnecessary hurdle to important skills and training at a time when workers need every advantage to succeed in the workplace.

"I urge Secretary Duncan to concede to the will of Congress and put an end to this job-destroying regulation once and for all. I look forward to working together on real solutions that strengthen the workforce and promote transparency for all students pursuing higher education."

As the vote would indicate, the amendment did have bipartisan support. In addition to Kline and Hastings, several Republican Members on the Committee and some Democratic Representatives, such as Reps. Carolyn Maloney (D-NY), Edolphus Towns (D-NY), and Rob Andrews (D-NJ), spoke in favor of the amendment.

Most Democrats are largely supportive of the Administration's efforts, but there are several who are concerned with the impact of the gainful employment proposal. An important constituency of the Democratic Party, the Congressional Black Caucus (CBC), is largely divided on the issue. Many Members, such as Towns and Hastings are concerned with limiting opportunities for minority students, but others, such as Rep. Danny Davis (D-IL), view the proposal as protecting students from bad actors.

"If the goal was truly to protect low-income and minority students, the continuing resolution would not have cut $200 million of institutional aid from" historically black and Hispanic-serving colleges and other programs, such as TRIO and Gear-Up, Davis said.

Like many of the drastic spending cuts in the underlying bill, it seems highly unlikely the amendment will survive in the Senate or a Presidential veto. Nevertheless, it does represent a significant victory for the for-profit higher education sector as it does show the level of concern in Congress with the Department of Education's proposed regulatory changes.

For coverage of debate on the amendment (written before the final vote) from *Inside Higher Ed*, please visit:
http://www.insidehighered.com/news/2011/02/18/house_debates_measure_to_block_education_department_from_enforcing_rule_on_for_profit_colleges

Several Student Aid/Student Loan CR Amendments Offered

In addition to gainful employment, there were several amendments related to student aid and student loans filed on the continuing resolution. The two most notable amendments offered were a restoration of the maximum Pell award and a prohibition on the use of funds on the development or administration of the SAFRA non-profit servicing contracts.

The amendment to maintain the maximum Pell award was sponsored by Reps. Judy Chu (D-CA) and Gwen Moore (D-WI). The two offices circulated a dear colleague letter and worked with the higher education community in seeking support for maintaining the maximum Pell award, but the amendment was ruled out of order because it was not offset.

Rep. Peter Welch (D-VT), a longtime supporter of the Vermont Student Assistance Corp., also filed, but never offered, an amendment prohibiting the use of funds to carry out the provisions of SAFRA related to the non-profit Direct Loan servicing contracts. The Department recently indicated that non-profit servicers would be paid at the same rate as the four national Direct Loan servicers.

There are also several amendments from Rep. Steve King (R-IA), a Tea Party favorite, which would prohibit the use of funds for the implementation of the original health care reform legislation and the subsequent healthcare and education reconciliation bill, which includes the student loan program restructuring and some Pell Grant funding. Two of King's healthcare defunding amendments passed, but needless to say, they face a difficult road to final enactment due to strong Democratic opposition.

Ed and Workforce Committee to Examine Regulatory Burden on Schools

On Tuesday, March 1 at 10:00 a.m., the U.S. House Committee on Education and the Workforce, chaired by Rep. John Kline (R-MN), will hold a hearing, "Education Regulations: Weighing the Burden on Schools and Students."

During the hearing, the Committee will examine the scope of federal education mandates, including data collection requirements and paperwork burdens, and analyze how compliance with these mandates creates unnecessary hurdles for K-12 schools, colleges and universities.

A witness list includes Gene Wilhoit, executive director of the Council of Chief State School Officers, Edgar Hatrick, superintendent of Loudon County (VA) Public Schools, Christphoer Nelson, president of St. John's College (MD), and Kati Haycock, president of The Education Trust. For more information on the hearing, visit: www.edworkforce.house.gov/hearings

Warren for Senate?

The DailyKos blog has started a "Draft Elizabeth Warren" campaign to encourage the organizer of the Bureau of Consumer Financial Protection to run against Sen. Scott Brown (R-MA) in the 2012 election. The blog site has been attempting to fashion itself as a full-fledged progressive operation. DailyKos is not the first organization to suggest Warren would make a good Senator. Several Massachusetts' publications and columnists have suggested she should run as far back as just after the death of the late-Sen. Edward Kennedy. Warren has yet to comment on the latest "Warren for Senate" rumblings.

Here is an excerpt from the announcement:

But Scott Brown is popular. So, in order to win in Massachusetts, we're going to need an energetic candidate who knows how to pick and win fights. We're gonna need someone who can deliver a populist *economic message that connects with the millions of voters facing economic hardship--a message which is distinct from both Wall Street and the Tea Party. And we are going to need someone who has a record of success to back up that rhetoric, so voters know it isn't just talk.*

Elizabeth Warren meets all of these criteria like almost no one else can. As the head of the Congressional Oversight Panel on TARP, she led to fight to expose corruption in the Wall Street bailout. As an outside advocate, and now Assistant to the President, she basically created the new Consumer Financial Protection Bureau (CFPB) on her own. She is an extremely experienced speaker, erudite enough to have been considered for the Supreme Court, a best-selling author on personal finance, and packs a populist punch in defense of the middle-class.

The full announcement, which includes an online petition, is available online:
http://www.dailykos.com/story/2011/02/15/945087/-MA-Sen:-Draft-Elizabeth-Warren

Durbin Seeking Additional Info on VA Withdrawal of Benefits to For-Profits

Sen. Dick Durbin (D-IL) announced he has asked the Department of Veterans Affairs (VA) for a list of colleges and universities from which it has suspended or withdrawn GI Bill and education benefits. In a response to a December 2010 letter from Durbin, VA Secretary Eric Shinseki explained that the VA had taken these measures after compiling information about erroneous, deceptive or misleading practices at these colleges and universities.

In his letter to Durbin, Shinseki explained the VA began conducting in-person interviews with student veterans who have received education benefits. According to the Secretary, a variety of questions are posed, including questions pertaining to student experiences with recruitment practices. Additionally, Voice of the Veteran customer satisfaction surveys are being conducted for all VA benefit programs.

In August 2010, Durbin joined Senators Tom Harkin (D-IA), Jim Webb (D-VA) and four other Senators in asking the VA and the Department of Defense for detailed information on how veteran and military tuition assistance program funding is being spent. Specifically, the Senators asked for "information on incidents of misrepresentation or fraud on the part of for-profit colleges and any complaints regarding aggressive or deceptive marketing, poor quality coursework, unexpected costs, or inability to obtain promised employment."

After receiving responses from both agencies, Durbin sent follow-up letters in December 2010 to Secretary Shinseki and the Secretary of Defense, Robert Gates, asking for further information. Durbin has not yet received a response for the Department of Defense.

Click here for a press release from Durbin's office, which includes the full response from Secretary Shinseki:
http://durbin.senate.gov/showRelease.cfm?releaseId=331152

The Administration

ED: Perkins Loans Authorized Through 2014

As we reported last week, the Department of Education released a dear colleague letter last Friday officially announcing its determination that the Perkins Loan Program is authorized through September 30, 2014. The announcement also confirms that Perkins, like the other student aid programs, would receive an automatic one-year extension authorizing the program through September 30, 2015.

The formal announcement of this interpretation aligns Perkins with other student aid programs and will permit decisions on the future of the program to be made in that broader context of a reauthorization of the Higher Education Act. COHEAO will continue working to ensure the future of a traditional Perkins Loan program that includes campus-based servicing and provides benefits to students.

A link and the full text of the letter are included below. If you have any questions, please do not hesitate to contact COHEAO.

http://ifap.ed.gov/dpcletters/GEN1102.html

We have received inquiries about the status of the Federal Perkins (Perkins) Loan Program, in light of the several dates in sections 461(b) and 466(b) of the Higher Education Act of 1965, as amended (HEA). This letter provides the Department of Education's determination that, under section 461(b), the Perkins Loan Program is authorized through September 30, 2014. If Congress does not enact legislation extending or repealing the authorization of the program before that date, the program would be eligible for a one-year extension, through September 30, 2015, under section 422(a) of the General Education Provisions Act (GEPA).

The Department of Education considers section 461(b) of the HEA, which authorizes appropriations for the Perkins Loan Program for fiscal year 2009 and for each of the five succeeding fiscal years, to control the duration of the program. Under section 461(b), Congress may appropriate funds for the Perkins Loan Program through fiscal year 2014. The Department believes that this authority controls the duration of the program, despite the outdated language in section 466(b) of the HEA, which provides that institutions participating in the Perkins Loan Program return to the Secretary, after October 1, 2012, the Federal share of amounts that they have collected on Perkins Loans made from their revolving funds.
If you have questions regarding this letter, please contact Gail McLarnon by phone at (202) 219-7048, or by e-mail at gail.mclarnon@ed.gov.

FY2012 Budget: President Again Calls for "Modernization and Expansion" of Perkins, This Time Terms Identical to Unsub Stafford Loans

As expected, President Obama continued to call for a "modernized and expanded" Perkins in his FY2012 budget request, which was released last Monday. What was somewhat unexpected, however, were the modifications to the proposal.

The Administration is again calling for the recall of the federal share of the revolving fund and the servicing and collection of the loans to be handled by the Administration, but the new proposal includes a 6.8% fixed interest rate and $8.5 billion in annual loan volume. The loans would remain unsubsidized and, with identical interest rates, have the exact same terms as Direct Unsubsidized Stafford Loans. The proposal also eliminates any details on an allocation formula, instead stating the allocation method would be "determined in consultation with Congress." The proposal produces budget savings over the next 10 years apparently because the government predicts it would make a profit on the loans.

It is important to note that this proposal requires Congressional approval and this is the beginning of a budget and appropriations process that can last the entire year and, in some cases (such as FY2011), even longer. The President has made very similar proposals in his last two budgets, but Congress, with Democrats in complete control, did not approve of any changes to the Perkins Program. So far there has been no interest among House Republicans in the proposal.

Below is an excerpt from the President's budget materials:

Federal Perkins loans.—Institutions award low-interest loans from institutional revolving funds, which are comprised of Federal Capital Contributions, institutional matching funds, and student repayments on outstanding loans. No new Federal Capital Contributions have been appropriated since 2004. The Administration supports congressional action to modernize and expand the Perkins Loan program so more colleges can participate and more students receive access to these loans. The proposal would increase, beginning on July 1, 2012, the total annual loan amounts available to students to $8.5 billion from the current $1 billion. Rather than operating through institutional revolving funds, the Federal Government would originate and service Perkins Loans. Loan volume would be allocated among degree granting institutions using a method to be determined in consultation with Congress. This new formula should encourage colleges to control costs and offer need-based aid to prevent excessive indebtedness.

Schools would continue to have discretion with about student eligibility. Perkins Loan borrowers would be charged a 6.8 percent interest rate, the same as in the unsubsidized Stafford Loan program. These loans would accrue interest while students are in school and other loan terms and conditions would be the same as current Unsubsidized Stafford loans. As current Perkins Loan borrowers repay their loans, schools would remit the Federal share of those payments to the Department of Education. Schools would retain their own share of the revolving funds, as well as amounts sufficient to cover the costs of the various Perkins Loan forgiveness provisions. Mandatory loan subsidy costs of this proposal would reduce 2012 outlays by $578 million and are displayed in the Federal Perkins Loan program account.

A summary of the budget's student loan related provisions is included with today's edition of *The Torch*. Additional information on the budget is available at the following:

- General FY2012 Budget Request Website: **www.whitehouse.gov/omb**
- FY2012 Education Department Budget Appendix: **http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/edu.pdf**
- FY 2012 Education Department Appropriations Justification (Student Loans Overview): **http://www2.ed.gov/about/overview/budget/budget12/justifications/s-loansoverview.pdf**

ED: New TPD Regs Forthcoming

In a joint project with the *Chronicle of Higher Education,* the Center for Public Integrity and ProPublica recently published an investigative report highly critical of the Department of Education's administration of total and permanent disability (TPD) claims.

The initial article profiled the struggles of many individuals with disabilities in dealing with the Department of Education. It was particularly critical of the Department's unwillingness to accept Social Security Administration rulings on whether an individual citizen was eligible for disability compensation. An excerpt from the initial report is below:

An unpublished internal report by the federal student aid ombudsman in 2009, obtained through a public records request, urged the Education Department to resolve "fundamental deficiencies" in the disability-discharge process. It proposed changes to address the problems of "no written medical standards for determining disability," "no formal appeals process" for denials, and "undue burden and costs" on borrowers, who must obtain required medical forms from their doctors at their own time and expense.

The ombudsman has twice recommended that the department consider scrapping its review altogether — and instead contract the decisions out to the Social Security Administration or other agencies with "mature and proven processes" for evaluating disability.

None of these recommendations has been followed.

The department has been more responsive to reforms ordered by Congress and the courts, but applicants have seen little change. Congress passed a law in 2008 creating an expedited loan-discharge process for veterans and easing the standard for discharge, from a full disability that is either indefinite or terminal to, instead, five years of full disability. In 2009 a federal court in Missouri found that the program's communication with borrowers was so poor that it was unconstitutional, violating applicants' due-process rights.

Although the story chronicled ED's unwillingness to "heed basic recommendations," the Department quickly said it would be working to address the situation. Justin Hamilton, a Department spokesperson, said the Department has already updated its existing processes and suggested additional regulations are expected in the near term.

"This system must work better for borrowers that become totally and permanently disabled," said Justin Hamilton, a spokesman for the Education Department. "We've put in place a number of major changes to address many of the problems borrowers encountered, and will be making even more changes when we issue proposed regulations in the coming months."

The need for improvement in this process appears to be bipartisan. In the story, Sen. Al Franken (D-MN) and Rep. Virginia Foxx (R-NC) indicated TPD needed to be revisited. Foxx said she was opposed to the use of multiple disability verification systems and her higher education subcommittee would also be examining the matter.

"This looks like a classic example of government waste and bureaucratic inefficiency that not only wastes taxpayers' money, but also their time," Foxx said. "The Higher Education Subcommittee will be taking a closer look at this problem to determine a solution that will save taxpayer time and money."

For the initial story from the Center for Public Integrity and ProPublica, visit:
http://www.publicintegrity.org/articles/entry/2910/

For the follow-up article on the response from the Department of Education, visit:
http://www.publicintegrity.org/blog/entry/2941/

ED Issues Quarterly Customer Service Performance Results for TIVAS Servicers

The Department of Education issued the customer service performance results for the quarter ending December 31, 2010 for the four national HEA Title IV student loan servicers (TIVAS) last week.

The Department measured customer satisfaction with each of the federal loan servicers exclusively through independently administered customer satisfaction surveys. ED assessed default prevention through analysis of each servicer's portfolio.

The full electronic announcement, which includes a table of results and an explanation of customer service performance methodology, is available online:
http://www.ifap.ed.gov/eannouncements/021811QuarterResults.html

Treasury Announces New Digs for CFPB

The U.S. Department of the Treasury announced that the future permanent headquarters of the Consumer Financial Protection Bureau (CFPB) will be located at 1700 G Street, NW in Washington, DC. According to Elizabeth Warren, the CFPB will move to its new home "sometime next year."

"The White House is one of the most frequent destinations for tourists who come to Washington – if only just to walk by and to get a picture taken. Our vision is a building nearby that is the clearly identifiable home of the Consumer Financial Protection Bureau. We want Americans to see where we work, to know that this is a place where financial cops are trained, and to be reminded that we are always looking out. We want this agency to have a very tangible presence for anyone who visits Washington," said Warren.

The building will contain approximately 300,000 useable square feet. Before the CFPB moves in, major renovations are needed to make more efficient use of space and to update the building to current energy and environmental standards.

The following is a description of the vision for the new CFPB headquarters from Treasury's announcement:

Although space planning is still in its early stages, the CFPB implementation team plans for the building to include a first floor that is open for regular educational programs, including interactive kiosks and 21st century learning centers. The goal is to make the CFPB headquarters, which is currently occupied by the Office of Thrift Supervision, a place where Americans of all ages can learn more about managing their finances and about the nation's first bureau dedicated to making the markets for consumer financial products and services work for American families.

Republicans have yet to publicly respond to the plans. However, given the current CFPB funding and oversight debate in Congress and this age of austerity, it is difficult to imagine the GOP remaining silent on plans for creating a new tourist destination, particularly one devoted to the highly controversial Bureau.

To view a blog post from Elizabeth Warren, please visit:
http://www.consumerfinance.gov/2011/02/18/finding-a-home/

Next Advisory Committee Meeting—March 17

The Advisory Committee on Student Financial Assistance announced its next meeting will take place on Thursday, March 17 at the Sheraton Hotel in downtown Washington, DC (1201 K Street, NW).

The meeting will consist of two sessions. The first session will be a roundtable discussion among experts regarding issues associated with the design and use of the institutional net price calculators mandated by Congress in the Higher Education Opportunity Act of 2008. The second session will be a panel discussion among experts of the nontraditional student population and the barriers to access and persistence that they face today. The third session will consist of a public comment session: five minutes will be allotted to those who request the opportunity to comment on one or both of the topics above.

To participate in session three, an email must be sent to **ACSFA@ed.gov** noting the topic. The Advisory Committee must receive comments on or before March 9, 2011. Space is limited. Advisory Committee staff will contact presenters prior to the meeting/hearing.

Click here for the full announcement: **http://edocket.access.gpo.gov/2011/pdf/2011-3016.pdf**

Industry News

National Guard Captain Files Lawsuit Against Citibank on Student Loans and Service Members Civil Relief Act

The Minneapolis Star-Tribune reported this week on a case filed by Minnesota National Guard Captain Lindsey Olson against Citibank, alleging the lender had violated the Service Members Civil Relief Act by instituting a mandatory forbearance on her account while she was on active duty.

At issue is whether the use of a mandatory forbearance is permitted. The *Star-Tribune* reports:

> *Olson said she contacted Citibank to have her interest rate, 9.25 percent at the time, capped at 6 percent. Citibank agreed to the rate cap, while placing her loan into forbearance and canceling the automatic payment feature on her loan. When she called to complain, Citigroup said that forbearance was required if she wanted to receive the lower interest rate.*

Citibank maintains the use of forbearance is a benefit for active duty service members because it prevents them from making monthly payments while in the field. However, auto-pay processes do mitigate that concern, and forbearance can increase the cost of a loan by hundreds of dollars.

Olson and her attorneys are seeking class action status for the complaint.

For additional coverage from the *Minneapolis Star-Tribune*, please visit:
http://www.startribune.com/business/116633613.html

ACE Led Coalition Expresses "Grave Concerns" with ED Definition of Credit Hour

ACE organized a large number of higher education associations and accreditors in writing Secretary of Education Arne Duncan to express "grave concerns" with the program integrity regulations definition of a "credit hour" and those pertaining to state authorization and misrepresentation. The initial letter addresses credit hours, but promises a separate communication on state authorization and misrepresentation.

On the topic of the definition of a credit hour, the letter states the Department has "federalized a basic academic concept." It also argues the credit hour regulations are "complex, ambiguous, and unworkable." An excerpt is below:

> *The concern is not that accreditors are expected to examine institutional policies with respect to credit hours. They have and will continue to do so. Rather, the issue is that with little evidence of a problem and no evidence that Congress wants the federal government to intervene in this area, the department intends to use accreditors to extend federal authority over academic decision-making on local campuses.*

After enumerating multiple concerns with the definition in the regulations, which are set to take effect on July 1, the letter concludes by asking Duncan to rescind the definition. The conclusion also contains a not so veiled threat regarding a large portion of the higher education community's support for the highly controversial full package of program integrity regulations, stating:

We strongly support the Department of Education's goal to reduce abuses in student aid programs that harm students and waste federal student aid dollars. However, the department's apparent desire to impose a federal definition on a central academic concept threatens to set us on a collision course that will dramatically undermine our support for these regulations.

To read the full letter, visit:
http://www.acenet.edu/AM/Template.cfm?Section=LettersGovt&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=39894

A Sign of the Times: HOPE Facing Significant Cuts

It is well-known that most states are facing budget crises, which are expected to lead to significant cuts in student aid funding. In addition to California's issues with the Cal-Grant program, significant state cuts to student aid are beginning to receive national media attention due to the proposal to slash one of the most famous state scholarship programs, Georgia's HOPE Scholarship.

The HOPE Scholarship began in 1993, providing funding from the Georgia Lottery proceeds for student scholarships. Initially offering two years of free tuition to highly qualified students from families earning less than $66,000 per year, the program grew to cover the full in-state cost of a degree and had no-income restrictions.

The new proposal will increase the merit requirements of the scholarship, but there will still be no income cap. Students with a 3.7 grade point average and 1200 SAT scores will still receive the full cost of tuition, but additional fees will no longer be covered. Students with a 3.0 GPA will still be eligible to receive 90% of their tuition costs at public schools and students using HOPE for a private school will see their scholarship drop from $4,000 to $3,600.

According to Gov. Nathan Deal, who put forward the proposal, it will save Georgia nearly $300 million, which is necessary to "preserve HOPE for future generations of Georgians while maintaining one of the most generous scholarship programs in the United States." The plan has yet to be approved, but the Georgia legislature has moved to fast-track the proposal, and it is expected to pass.

The scholarship program has earned Georgia praise in terms of its generosity for student aid, but it has had some detractors. At its inception, the program had an income threshold and cost the state $21 million. Last year, it cost $639 million.

Over the years, there had been complaints that the program spent too lavishly, as some students began to describe new luxury cars on the campuses of the University of Georgia in Athens and Georgia Tech in Atlanta as "HOPE mobiles," suggesting affluent parents were putting the tuition savings toward a new car. Additionally, there were some complaints about excessively high standards for admission at the state's two flagship schools as a result of the program, which encouraged top students to stay in state.

"People are going to be looking to Georgia to see what can go wrong," said Will Doyle, a researcher at Vanderbilt University who focuses on lottery scholarships, told the *Associated Press*. "These programs weren't built to last."

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ISSUE BRIEF

Student Loans and the President's FY2012 Budget

FEBRUARY 15, 2011

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The President released his FY2012 budget proposal and it again turns to the FFEL Program to provide budgetary savings for student aid spending. The following is a compilation of the budget proposals specifically related to federal student loans.

The "Pell Grant Protection Act"

The discretionary budget at the Department of Education is under particularly intense pressure due to the exploding costs of the Pell Grant program. In the budget request, the Administration is calling for Congress to adopt its "Pell Grant Protection Act," which in addition to its split-servicing proposal, includes the following:

- Ending the "year-round" Pell Grants—the availability of a second Pell Grant for students, usually in the summer session
- Ending the in-school interest subsidy for graduate, medical and professional students
- Requiring the use of verified data on the FAFSA form
- "Expanding and modernizing" the Perkins Loan Program by making those loans nearly identical to an unsubsidized Stafford Loan, thus producing additional savings

Maintaining current Pell Grant award levels requires significant spending. The program is estimated to cost $41 billion in FY2012, $13 billion of which is already provided for through CCRAA and the reconciliation bill. The Administration estimates its proposals would save $100 billion to be put toward "protecting the Pell Grant."

"Expanding and Modernizing" Perkins Loans

Once again, the Administration is promoting the proposal to "expand and modernize" the Perkins Loan Program as an alternative to "costly and expensive" private student loans. This time, the plan would expand the program from $1 billion in annual volume to $8.5 billion. It includes an interest rate of 6.8% -- identical to unsubsidized Staffords and above Perkins current rate of 5% — and claims nearly $7.5 billion budgetary savings over the next 10 years.

The relevant section from the Department of Education's FY2012 Appropriations Justification is included below:

> *Current annual loan limits in the Federal student loan programs are inadequate for some students. The 50-year-old Perkins Loan program has served as a supplementary source of low-interest loans, but the program is too small and its current structure is inefficient and inequitable: loans are serviced directly by institutions at considerable cost, and students at less wealthy institutions often have little or no access to the program.*
>
> *The Administration supports reformulating the current Perkins Loan program to a new mandatory Perkins Unsubsidized Loan program providing up to $8.5 billion in new loan volume annually and reaching over 3 million students at as many as 2,700 additional postsecondary education institutions when fully implemented. Like current Perkins loans, colleges would allocate these loans among their students and schools would continue to have discretion regarding student eligibility. However, instead of being serviced by the colleges, loans would be serviced by the Department of Education along with other Federal loans.*
>
> *Under current law, schools are required to start returning Perkins assets to the Government—primarily student loan repayments—beginning July 1, 2016. Under the proposed new Perkins program, schools would be required to return assets beginning July 1, 2012, at the start of the new program.*
>
> *The Administration proposes an interest rate consistent with Unsubsidized Stafford loans at 6.8 percent. Loan amounts for both undergraduates and graduates would remain the same as in the current Perkins program. To increase loan availability, interest on the loans would accrue while students are in school. As current Perkins Loan borrowers repay their loans, schools will remit the Federal share of those payments to the Department of Education. Schools will retain their own share of the revolving funds, as well as amounts sufficient to cover the costs of various Perkins Loan forgiveness provisions.*

Eliminating the In-School Interest Subsidy for Graduate Students

The President's budget proposes the elimination of the Stafford Loan in-school interest subsidy for graduate, professional, and medical students. The complete elimination (both undergraduate and graduate) of the in-school subsidy has been proposed by the Simpson-Bowles Deficit Commission and House Republicans. The Administration cites these recommendations in its materials promoting its budget, but this proposal is expected to receive wide criticism from student groups and some of the higher education trade associations. Such a proposal may make private loans more competitive with federal loans, particularly for borrowers who do not believe they will need the back-end benefits of income-based repayment and/or public service loan forgiveness.

Converting Split Borrowers to Direct Loans

The President is proposing to convert the outstanding FFEL loans of the so-called "split borrowers" to Direct Loans, which the Administration estimates will save $2.1 billion. The relevant section from the Education Department's Appropriations Justification is included below:

The current repayment process often involves borrowers making payments to multiple student loan holders, and puts them at greater risk for default due to this fact. In an effort to assist these borrowers and simplify their repayment process, the Administration proposes to allow a one-time 9 month opportunity from January 1, 2012 through September 30, 2012, for borrowers whose loans are split between Department contractors and FFEL lenders to convert existing FFEL debt and move it to the Department of Education. Terms and conditions of the borrower's loans would not change, and they would not have to consolidate their loans in order to convert. Borrowers have the ability to choose whether to convert, but if they do choose to participate, they will receive a benefit of up to 2 percent of their loan balance.

Converted debt would be recorded in a Student Loan Acquisition Account, along with FFEL loans previously purchased from private loan holders under the expired ECASLA program. This 2012 Budget proposal is a borrower-based option rather than an offer to purchase loans made by private loan holders. Private loan holders would be paid 100 percent of the outstanding principal and interest balance on any loans converted. The proposed policy provides for a more efficient overall loan repayment system in future years by centralizing and reducing servicing costs to the Federal Government and enabling those borrowers after conversion to stay with a single loan servicer.

The Department projects that roughly $40 billion in loans would be converted to Direct Lending under this scenario. This program would be available to borrowers for a period of nine-months, from January 1-September 30, 2012. Notably, even after providing borrowers with up to 2 percent principal reduction, the Administration estimates this proposal will result in $2.1 billion in federal budgetary savings.

<u>Student Loan Servicing</u>

$1.095 billion is slated for "student aid administration." This includes $370 million for student loan servicing, which is roughly identical to FY2010, but $100 million more than is estimated for FY2011. These estimates assume identical pricing between localized non-profit servicers and the national Title IV servicers. The College Access Challenge Grant program, which may be used by states (guaranty agencies) for default aversion and delinquency prevention activities is level funded at $150 million.

<u>Notable Data & Figures</u>

As mandated by the Federal Credit Reform Act, the President's proposal contains a comparison of the relative costs of the Direct Loan and FFEL programs. Both programs are estimated to provide savings for the government, but Direct Lending is at a much higher rate. The negative subsidy rate, or estimated return, is 16.03% for Direct Lending and 2.2% for FFEL in FY2010.

The budget also compares default rates, estimating FFEL default rates at 21.36% in FY2010. It estimates Direct Lending default rates at 15.85% for FY2010, ticking slightly upward in FY2011 (16.11%), and returning to 15.85% in FY2011.

According to its Appropriations Justification Student Loan Overview, the Department estimates $147 billion in Direct Loan volume for FY2012. Of that total, roughly $124 billion is in new loans and $23 billion is in consolidation loans.

Additional Information

Additional information on the budget is available at the following:

- General FY2012 Budget Request Website: **www.whitehouse.gov/omb**
- FY2012 Education Department Budget Appendix: **http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/edu.pdf**
- FY 2012 Education Department Appropriations Justification (Student Loans Overview): **http://www2.ed.gov/about/overview/budget/budget12/justifications/s-loansoverview.pdf**