The **Torch**

February 17, 2012

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

COHEAO News

- **COHEAO Taking Applications for the 2012-2013 Scholarship—Tell Your Students!**
  COHEAO is pleased to announce that the 2012-2013 COHEAO Scholarship is now taking applications. An application and additional materials are available online.
- **The COHEAO Achievement Program (CAP)**
  COHEAO is pleased to announce the launch of the COHEAO Achievement Program (CAP).

The Congress

- **Miller, Hinojosa Write Kline on Upcoming CCRAA Interest Rate Spike**
  Ranking Member George Miller (D-CA) and Higher Education and Lifelong Learning Subcommittee Ranking Member Ruben Hinojosa (D-TX) wrote Chairman John Kline (R-MN) this week urging the passage of legislation to prevent the pending interest rate spike on subsidized Stafford Loans.
- **Wyden Bill Would Add Cost and Earnings Disclosure Mandates on Colleges**
  Senator Ron Wyden introduced legislation this week (S. 2059) which would add disclosure and reporting requirements for colleges and universities.
- **Senators Introduce Bill to Count VA and Military Benefits As Federal Aid in 90-10 Formula**
  Several Democratic Senators, led by Sen. Tom Carper (D-DE), convened a press event yesterday to announce the introduction of the *Military and Veterans Education Protection Act* (MVEP), S. 2116.

The Administration

- **President Releases FY2013 Budget Request—Includes Modified Call for Perkins "Modernization" and Continuation of Current Program for F2013**
  The President sent his proposal for spending on federal programs new and old to Congress, an annual event that sets the stage for discussions about what the government should be doing for next the fiscal year.
- **FCC Issues New TCPA Rules—Informational Calls Unaffected**
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- **CFPB Proposes Rules for Defining "Larger Participants" in Consumer Debt Collection Market**
  Yesterday, the CFPB issued proposed regulations for defining "larger participants" in the consumer debt collection and consumer reporting markets.
- **Info from the CFPB on the Response to Private Student Loan *Federal Register* Notice**
  The Consumer Financial Protection Bureau has regularly used its blog to provide Bureau followers information on its efforts to study the private student loan market.

- **Second Week of Negotiated Rulemaking Concludes With Approval of Most Perkins Changes**
  The second round of negotiated rulemaking on student loan issues at the Department of Education proceeded smoothly in general this week, finishing a few hours earlier than scheduled but leaving a
- **Draft FISAP Now Available**
  The 2013-2014 FISAP is currently under review by the Office of Management and Budget (OMB), but ED is providing the current draft to allow schools more time to prepare.
- **GAO Offers Report on Recent Forum on Financial Literacy**
  On October 20, 2011, GAO convened a forum to discuss the needs and priorities in improving financial literacy.

Industry News

- **Bankruptcy Attorneys Warn of "Student Loan Debt Bomb"**
  The National Association of Consumer Bankruptcy Attorneys (NACBA) released a report, "The Student Loan Debt Bomb: America's Next Mortgage-Style Economic Crisis?"
- **S&P Joins Moody's in Warning of Possible Student Loan Bubble**
  In a report last week, Standard and Poor's suggested a student loan debt bubble may be on the horizon.
- **New America Foundation Examines Federal Loan Interest Rates**
  The New America Foundation's Federal Education Budget Project released a report this week, "Federal Student Loan Interest Rates: History, Subsidies, and Cost."
- **PHEAA to Provide PSLF Servicing**
  PHEAA announced it been selected by the Department of Education to service loans under the Direct Loan Program for borrowers who are eligible to participate in the Public Service Loan Forgiveness Program.
- **ELM Resources Launches New Site**
  ELM Resources has unveiled a new website which can be found at: www.elmresources.com.

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COHEAO News

COHEAO Taking Applications for the 2012-2013 Scholarship—Tell Your Students!

COHEAO is pleased to announce that the 2012-2013 COHEAO Scholarship is now taking applications. An application and additional materials are available online. (If the link does not work with your email client, please visit www.coheao.org and click on the scholarship info in the middle of our homepage).

COHEAO will be awarding four $1,000 scholarships to qualified students from COHEAO member colleges for the 2012-2013 academic year. Applications must be postmarked by March 31, 2012. Additional eligibility requirements are listed below:

- **Applicants must be U.S. citizens;**
- **Applicants must attend a COHEAO Full Member School;**
- **Applicants must have a minimum GPA of 3.75 on a 4.0 scale;**
- **Only undergraduate students, who will be entering their sophomore, junior, or senior year in 2012-2013, are eligible to apply: freshmen and graduate students are not eligible;**
- **Only one scholarship per family per academic year will be awarded; and**
- **COHEAO members and their immediate family members are not eligible for COHEAO scholarships.**

Please share this information with your students and other appropriate offices. Additional information, including an application and FAQ document, is available on the COHEAO Scholarship Webpage and is also easily accessible via www.coheao.org.

COHEAO would like to again thank all who donated to our Scholarship Fund through silent auction donations and individual contributions. A record amount was raised, allowing the addition of one additional scholarship for the coming year.

If you have any questions on the 2012-2013 COHEAO Scholarship, please contact Wes Huffman (whuffman@wpllc.net, 202.289.3900)

The COHEAO Achievement Program (CAP)

COHEAO is pleased to announce the launch of the COHEAO Achievement Program (CAP). Under this program, through various activities with our organization COHEAO members can earn points toward CAP certification. The benefits of CAP certification are as follows:

- Recognition of achievement at the COHEAO Conference immediately following the individual member's CAP Certification
- Acknowledgement of CAP Certification in *The Torch* and on the COHEAO Website
- Letter of accomplishment sent to the CAP certified COHEAO member and their immediate supervisor
- Specific identification as a "CAP Graduate" on nametags at COHEAO conferences and events

The program was initiated at the COHEAO Annual Conference where some COHEAO members earned as many as four CAP points. Under the program, a total of 10 CAP points are required for certification. Additional information on the COHEAO Achievement Program is included with today's edition as a special attachment.

The Congress

Miller, Hinojosa Write Kline on Upcoming CCRAA Interest Rate Spike

House Education and the Workforce Committee Ranking Member George Miller (D-CA) and Higher Education and Lifelong Learning Subcommittee Ranking Member Ruben Hinojosa (D-TX) wrote Committee Chairman John Kline (R-MN) this week urging the passage of legislation to prevent the pending interest rate spike on subsidized Stafford Loans. The text of the letter is below:

> *This July, more than 7 million undergraduate students will see the interest rates on their need-based student loans double from 3.4 percent to 6.8 percent if Congress fails to act. This increase will cost the average borrower more than $2,800 in additional interest payments. At a time when the economy is on fragile footing, the youth employment rate is at its lowest in 60 years, and other interest rates are at historic lows, we should not be asking students and families to pay more on their student loan debt. We respectfully urge you to take action in the coming weeks in the committee to ensure that students' interest rates do not increase.*
>
> *Subsidized student loans are a critical tool for many students and families paying for higher education. Congress has worked hard over the last five years to increase the maximum Pell Grant award by more than $1,000; however, only 42 percent of dependent undergraduate subsidized student loan borrowers also receive a Pell Grant. It is equally important that Congress continues to ensure that subsidized student loans remain an affordable option for students.*
>
> *Further, it is imperative that this Committee considers this issue soon. The interest rate is set to change this July, but students and families need to plan for the coming year in the next few months. They will be receiving student aid packages from their institutions of higher education this spring. My understanding is that, in order to ensure that students receive accurate information, and that the Department of Education has adequate time to adjust to a change, we should change the law before the end of May.*
>
> *At an October 25, 2011, hearing of the Higher Education and Lifelong Learning Subcommittee, you and other members on both sides of the isle agreed that a 6.8 percent interest rate is too high to be charging students. We agree. And we stand ready to work with all members of our committee to support all students, especially those with financial needs, and prevent interest rates from increasing.*

The College Cost Reduction and Access Act of 2007 phased down year by year subsidized Stafford Loan interest rates to 3.4 percent for loans made during the current academic year, but that part of the legislation expires in June. The phase-down was offset mainly by cuts to FFEL lenders, but the FFEL Program has since been ended, and the cuts made in 2007 were permanent, so cannot be used again as federal cost offsets.

Kline has said that House Democrats and their campaign promise of 2006 to halve the interest rate on federal student loans led to the upcoming problem. His Committee's press release on President Obama's the State of the Union address, where Obama asked for an extension of the 3.4 percent rate, says:

> *Instead of working with Republicans on responsible solutions that would help make higher education more affordable for students in the long run, the Democrat Congress chose to make false promises to borrowers and kick the can down the road.*

Sen. Jack Reed (D-RI) introduced a bill to maintain borrower interest rates on Direct Subsidized Stafford Loans at 3.4 percent, and similar legislation has been introduced in the House by Rep. Joe Courtney (D-CT). The bills have some support among Democrats, with 53 cosponsoring in the House and five cosponsoring in the Senate, but neither bill indicates how the cost of maintaining the 3.4 percent rate ($5.8 billion for one year and $45 billion for 10 years) would be paid for.

Wyden Bill Would Add Cost and Earnings Disclosure Mandates on Colleges

Senator Ron Wyden introduced legislation this week (S. 2059) which would add disclosure and reporting requirements for colleges and universities. The aim of the legislation is to provide students and families with better consumer information and it is named the "Student Know Before You Go Act."

The bill would focus on statewide data systems and longitudinal data. Below is a description from a fact sheet prepared by Wyden's staff:

This proposal would ensure future students and their families can make well-informed decisions by having access to information on:

1. *Post-graduation average annual earnings;*
2. *Rates of remedial enrollment, credit accumulation, and graduation;*
3. *Average cost (both before and after financial aid) of the program and average debt accumulated;*
4. *The effects of remedial education and financial aid on credential attainment and a greater understanding of what student success can mean.*

Current reporting requirements for institutions of higher education make it difficult to identify which critical bends in the education system tend to improve or worsen student outcomes and make it impossible to match student records to results such as employment and earnings data. Currently, institutions of higher education that receive federal funding are required to report various data sets to the U.S. Department of Education (USED) under the Integrated Postsecondary Education Data System (IPEDS). However, many critical IPEDS reporting requirements are cohort-based and submitted as aggregates, making it difficult to attain reliable information on a number of relevant policies (such as graduation rates of transfer students). This proposal would:

1. *Replace existing IPEDS reporting requirements with a state-based and individual-level system which excludes any personally-identifiable data;*
2. *Require these new interoperable data systems to match individual level transcript data to postgraduation employment and earnings outcomes;*
3. *Reduce institutional reporting burden for institutions that report to both IPEDS and state data systems;*
4. *Further empower state data systems, making current federal Statewide Longitudinal Data System (SLDS) investments an even better value;*
5. *Create a data system with tremendous potential for policy analysis, research, and reporting, that contains no personally-identifiable data.*

Additional information on S. 2059, including Wyden's Floor speech, is available online:
http://wyden.senate.gov/newsroom/press/release/?id=92336a7d-3c07-4bd1-9821-a8d50818194d

Senators Introduce Bill to Count VA and Military Benefits As Federal Aid in 90-10 Formula

Several Democratic Senators, led by Sen. Tom Carper (D-DE), convened a press event yesterday to announce the introduction of the *Military and Veterans Education Protection Act* (MVEP), S. 2116. Joining Sen. Carper in sponsoring the legislation are Sens. Jim Webb (D-Va.), Tom Harkin (D-Iowa), Jay Rockefeller (D-W.V.), Tim Johnson (D-S.D.), Al Franken (D-Minn.), Claire McCaskill (D-Mo.) and Kay Hagan (D-N.C.). Rep. Jackie Speier (D-Calif.) introduced a bipartisan companion bill in the House of Representatives.

The *Military and Veterans Education Protection Act* changes the 90/10 formula so that a for-profit school's revenues from DOD and VA programs are counted as federal dollars on the 90 percent side of the 90/10 formula rather than as private dollars on the 10 percent side. The for-profit school would then have to ensure that at least 10 percent of its revenue would come from truly non-federal, non-DOD, VA or DOE funding sources. The legislation would also amend current law so that if a school is out of compliance for two consecutive years, it would lose eligibility to accept not only new DOE dollars, but also new DOD and VA dollars. Schools will regain their eligibility once they take a series of steps toward compliance, which is unchanged from current law.

Sen. Dick Durbin (D-IL) has introduced similar legislation, the Protect Our Students and Taxpayers Act (POST), S. 2032. In addition to counting VA and DOD benefits in the calculation, Durbin's legislation would preclude the use of loans made to students by for-profit institutions and reduce the overall percentages to 85/15. Harkin is the lone cosponsor of that legislation.

Additional information on the MVEP legislation and the press event is available online:
http://www.carper.senate.gov/public/index.cfm/pressreleases?ID=5c67f594-3f03-463f-8533-672b9c6bea2d

The Administration

President Releases FY2013 Budget Request—Includes Modified Call for Perkins "Modernization" and Continuation of Current Program for F2013

The President sent his proposal for spending on federal programs new and old to Congress, an annual event that sets the stage for discussions about what the government should be doing for next the fiscal year. Fiscal Year 2013 starts on October 1, 2012 and runs through Sept. 30, 2013.

The budget, for the fourth year in a row, contains a proposal to completely change the Perkins Loan Program, eliminating the current program and replacing it with a new supplemental unsubsidized direct loan program. The new program, labeled Perkins in the budget, would resemble the current program only in that funds to lend would be allocated to participating colleges and universities with a national ceiling on total loan funds available of $8.5 billion per year.

However, in a significant break from the three previous proposals, the budget calls for continuation of the current Perkins Loan Program through the "statutory date described in the Higher Education Act," which would under Department of Education interpretations of the law mean the current program is authorized to continue until October 1, 2015 unless Congress acts to update the HEA sooner. If that date arrives and Congress has not completed the HEA reauthorization process, then it likely would be extended for long enough for Congress to complete its work, along with the other student aid programs in the HEA. This is what happened during the last reauthorization process in the 2000s, when Congress passed almost two dozen extensions of the programs before the reauthorization was completed in August 2008.

This is a significant change from the Administration's previous position and actually brings it close to the position COHEAO has been advocating: continuation of the current program remains important to students and is a separate issue from proposals to create a new supplemental Direct Loan Program, whatever its name.

Here is how the Administration describes the Perkins proposal in its budget:

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 Budget proposes 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, 2013, the 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. This new formula will encourage colleges to control costs and offer need-based aid to prevent excessive indebtedness. Schools would have some discretion 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, beginning at the statutory date described in the Higher Education Act of 1965. 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 2013 outlays by $648 million and are displayed in the Federal Perkins Loan program account.

COHEAO members were updated on the budget throughout the week with multiple Sparks. The budget related Sparks are included with today's edition as a special attachment.

FCC Issues New TCPA Rules—Informational Calls Unaffected

Earlier this week, the FCC held an open meeting at which it released final rules related to the Telephone Consumer Protection Act. In relevant part, the order reads:

In the proposed rules, the Commission considered adopting prior express written consent for all autodialed or prerecorded calls. Here, the Commission adopts prior express written consent for autodialed or prerecorded telemarketing calls only.

The final rules do not address informational calls, meaning nothing has changed for the calls made by COHEAO member colleges and companies. In the FCC's documents on the order, there are multiple references to a "cross industry coalition" raising concerns with subjecting informational calls to these new rules. COHEAO is a member of that coalition, which was a driving force in getting the change from the proposed rules of 2010 to the final rules released yesterday. COHEAO is very pleased with this outcome, but it will be important to continue to differentiate informational calls and telemarketing calls from issues associated with the use of autodialers.

Convincing the FCC to move away from their 2010 proposed rule was no small task, and COHEAO was a contributor to that effort. However, as many COHEAO members know, significant challenges remain which must be addressed on the legislative front. COHEAO has also worked with the "TCPA Coalition" on these efforts related to permitting the use of autodialers to call cell phones and will continue to do so as the opportunity arises.

These advocacy efforts suffered a significant setback when the TCPA reform legislation was pulled last year due to lobbying from consumer groups, privacy advocates and state attorneys general concerned about loss of jurisdiction over complaints. However, the release of the President's budget offers some hope. Tucked away in the budget documents is a call for the use of autodialers by Department of Education contractors in the collection of federal student loan debt:

> ***Modify Automatic Dialing System Procedures for Debt Collection***
> *The Budget proposes modifying current procedures regarding the use of automatic dialing systems and prerecorded voice messages to contact wireless phones in the collection of debt owed to or granted by the United States. This modification would be consistent with proposed Federal Communications Commission policy allowing the use of automatic dialing for land-line phones. The Department fully employs every available tool to assist borrowers in avoiding the negative consequences of default by offering numerous, affordable loan repayment options, including, for example, the flexible income-based and income-contingent repayment plans.*

Additional information on the FCC rules is available online: http://www.fcc.gov/document/fcc-strengthens-consumer-protections-against-telemarketing-robocalls-0.

CFPB Proposes Rules for Defining "Larger Participants" in Consumer Debt Collection Market

Yesterday, the CFPB issued proposed regulations for defining "larger participants" in the consumer debt collection and consumer reporting markets. Under the proposed rules, companies with more than $10 million in annual receipts from consumer debt collection accounts would be subject to CFPB supervision. Section 1024 of the Dodd-Frank Act gives the CFPB supervision authority over non-bank entities which it determines to be larger participants in consumer financial markets. The proposed rules state the following on CFPB supervision of larger participants.

> *The Bureau is authorized to supervise nonbank entities subject to section 1024 of the Act by requiring the submission of reports and conducting examinations to: (1) assess compliance with Federal consumer financial law; (2) obtain information about such persons' activities and compliance systems or procedures; and (3) detect and assess risks to consumers and to the consumer financial markets.*

The CFPB also offers the following summary in its *Federal Register* notice.

> *This proposal is the first in what the Bureau intends to be a series of rules to define "larger participants" in specific markets for purposes of establishing, in part, the scope of coverage of the Bureau's nonbank supervision program. In developing the proposal, the Bureau considered the comments it received in response to the Notice and in the roundtables conducted last year. The Proposed Rule covers two markets for consumer financial products and services: Consumer debt collection and consumer reporting.*
>
> *The Proposed Rule sets forth definitions for the consumer financial products or services comprising the markets that it covers, in addition to defining other terms. The proposal establishes a test for each market to determine whether a nonbank entity is a larger participant of that market. For the debt collection and consumer reporting markets, the Bureau is proposing a test that measures the criterion*

> *of "annual receipts." This measurement will use a definition of "annual receipts" adapted from the definition of the term used by the Small Business Administration (SBA) for purposes of defining small business concerns. The proposed threshold for the consumer debt collection market is more than $10 million in annual receipts and, for the consumer reporting market, is more than $7 million in annual receipts. Under the tests set forth in the Proposed Rule, these receipts must result from activities related to the market in question.*
>
> *Covered persons meeting the proposed tests would qualify as larger participants and be subject to the Bureau's supervision authority under section 1024 of the Act. Although annual receipts are proposed as the criterion of measurement for both markets covered by the Proposed Rule, the Bureau has not determined that this criterion would be appropriate for any other market that may be the subject of a future rulemaking. Rather, the Bureau will tailor each test to the market to which it will be applied.*

In a footnote, the proposed rules also note the supervision authority extends to service providers of "larger participants":

> *The Bureau's supervision authority also extends to service providers of these entities. See Act section 1024(e) (establishing the Bureau's supervisory authority relating to service providers); see also, Act section 1002(26) (defining "service provider"). Service providers to consumer debt collectors and consumer reporting agencies may include firms such as data aggregators, law firms, data and record suppliers, account maintenance services, call centers, software providers, and developers of credit scoring algorithms.*

The Bureau must define "larger participants" for all of the consumer finance markets under its jurisdiction and the initial rules must be issued by July 21, 2012. Comments on these rules are due 60 days after their publication in the *Federal Register*, which is expected imminently.

Additional information on the CFPB proposed rules is available online:
http://www.consumerfinance.gov/wp-content/uploads/2012/02/20120216_cfpb_larger-participants-NPRM-as-submitted.pdf

Info from the CFPB on the Response to Private Student Loan *Federal Register* Notice

The Consumer Financial Protection Bureau has regularly used its blog to provide Bureau followers information on its efforts to study the private student loan market. The latest such blog post is included below:

> *The Consumer Bureau has been busy when it comes to student loans. We worked with the Department of Education to launch our Know Before You Owe: Student Loans project and we rolled out the Student Debt Repayment Assistant to help student loan borrowers understand their repayment options. We also published a notice in the Federal Register to ask you – students, lenders, servicers, schools, and other members of the public – to tell us about your experiences with the private student loan market. The response we've already received from all corners has been impressive and very helpful.*
>
> *We have received strong cooperation from the Consumer Bankers Association, trade associations representing non-profit lenders, and the largest for-profit lenders in the private student loan market, who are providing a great deal of data to help us learn more about the marketplace. We're also working with the Department of Education to crunch numbers from the National Center for Education Statistics.*

In response to our notice, we also received over 2,000 comments from consumer advocates, industry associations, banks, schools, and individual borrowers. [Click here](#) to read some of the comments we received from advocacy groups, institutions, and other trade associations.
Many of the comments we received from individual borrowers told of deeply personal experiences with private student loans. The CFPB takes privacy very seriously, so we are taking extra care with these sensitive comments and redacting certain personally identifiable information. We will post the remaining comments in the coming weeks.

To stay up to date on the CFPB's work on student issues, subscribe to our mailing list at the right.

We're working hard to identify the big issues and to determine how to make the market work better for students and the industry. We will continue to give you updates about what we're learning from your comments, the information from lenders, and other data sources as we make progress.

This blog post was written by Angela Peoples. She is a former lobbyist for the United States Student Association and Campus Progress, where she most recently worked before joining the Bureau.

Second Week of Negotiated Rulemaking Concludes With Approval of Most Perkins Changes

The second round of negotiated rulemaking on student loan issues at the Department of Education proceeded smoothly in general this week, finishing a few hours earlier than scheduled but leaving a large amount of work still to do before the third and final round. The negotiations took place Monday-Thursday in the Office of Postsecondary Education conference room in Washington. The final round will take place March 26-30 in the same location. COHEAO President Bob Perrin of Williams and Fudge and Vice President Maria Livolsi of the State University of New York participated as negotiators. Also participating for bursars was David Glezerman of Temple University.

The major work before the next round will fall to the FFELP and Direct Loan Program experts who will be reviewing the proposed regulatory changes sent last Tuesday evening to negotiators by the Department. Because there was not enough time to carefully review the 319 pages of FFELP regulatory changes and 140 pages of DL changes before the negotiations commenced, it was agreed that working groups of negotiators and other interested parties would confer by conference call starting next week, with grids showing changes produced by March 1 and a negotiator conference call taking place on March 5. The Department will present regulatory revisions and explanatory language for consideration at the final round.

The Perkins Loan regulations did not draw much controversy, with consensus reached on the regulatory proposals for all but Issue 23 of the six Perkins-only items on the agenda:

19. Federal Perkins Loan Graduate Fellowship Deferment Eligibility
20. Social Security Number Requirement for Assignment of Federal Perkins Loans to Department of Education
21. Federal Perkins Loan Cancellation Rate Progression Across Cancellation Categories
22. Federal Perkins Loan Economic Hardship deferment Debt-to-Income Ratio Provision
23. Federal Perkins Loan Break in Cancellation Service Due to Condition Covered Under the Family and Medical Leave Act (20 U.S.C. 2601 et.seq.)
24. Standard for On-Time Rehabilitation Payments in the Federal Perkins Loan Program

The complicated changes to the income contingent and income based repayment programs drew much discussion, as did definitions of economic hardship and procedures for administrative forbearance. Also complicated are several issues related to cancellation of loans – Perkins, Direct and FFEL – due to permanent and total disability.

Perhaps the most contentious issue was over Issue 8, revisions to regulations defining reasonable and affordable payments by borrowers attempting to rehabilitee a loan or in ICR or IBR. Advocates for consumer groups attacked collection agencies, claiming agencies set the first payment as the same as their expected commission and over-pressure borrowers to make unreasonably high payments. Other negotiators responded that it agencies are paid when a borrower successfully makes a series of payments so they have no incentive to force borrowers into payment plans that they can't afford. The Department negotiators indicated an interest in protecting the taxpayer as well as the borrower. The Department is considering various proposals for modifying the regulations on this issue. It initially suggested that borrower and lender/agency first attempt to work out a payment plan and if that proves impossible, then the borrower be put on the income-based repayment schedule.

The draft regulatory proposals may eventually be posted on the negotiated rulemaking website, which is at: http://www2.ed.gov/policy/highered/reg/hearulemaking/2011/loans.html .

COHEAO will be sending Members a full summary of the negotiations later.

Draft FISAP Now Available

The Fiscal Operations Report for 2011-2012 and Application to Participate for 2013-2014 (FISAP) in the Campus-Based programs is currently under review by the Office of Management and Budget (OMB). However, the Department indicates, "We are providing the attached Draft FISAP and accompanying instructions so that schools can prepare to gather necessary information for the actual submission of its information in the FISAP that will be available by August 1, 2012."

The full announcement, which includes the draft document, is available online: http://www.ifap.ed.gov/eannouncements/021612CB1314DraftFISAPandinstructions.html

GAO Offers Report on Recent Forum on Financial Literacy

On October 20, 2011, GAO convened a forum to discuss the needs and priorities in improving financial literacy; roles and responsibilities of and collaboration among the government, nonprofit, and private sectors; lessons learned from federal public health and nutrition literacy initiatives; and GAO's potential role in addressing financial literacy issues. The following are highlights of the forum as identified by GAO:

- **Focus on key populations.** Participants discussed a number of areas that should be the most sustained focus of the nation's financial literacy efforts in the coming years. Among other areas, efforts should target kindergarten through 12th grade education; the workplace; the preretirement years; and special populations that may be particularly vulnerable, including low-income communities, the Hispanic community, and older Americans. Materials should be tailored as appropriate to meet these populations' characteristics and circumstances.
- **Identify the most effective approaches and target efforts accordingly.** More research is needed to identify the most effective approaches to improving financial knowledge and behavior. Targeting products appropriately, improving delivery mechanisms, and leveraging technology are also important.
- **Enhance the role of employers in improving their employees' financial literacy.** Employers have a key role to play in improving the financial literacy of their employees—for example, by encouraging them to save for emergencies and retirement. Further, financial literacy stakeholders need to do

more to persuade employers of the business benefits of supporting healthy financial behaviors by employees.

- **Leverage the unique role of the federal government.** The federal government has a unique role to play in promoting greater financial literacy. For example, the government can use its convening power and other tools to draw attention to the topic, take advantage of existing connections with certain populations, and make certain legal and regulatory changes to support greater financial literacy.
- **Increase coordination and partnerships within and across levels of government and different sectors.** Opportunities exist to further increase coordination and partnerships among entities involved in financial literacy. Such efforts could help federal, state, and local government agencies; private sector entities; and nonprofits conserve scarce resources and reduce any duplication of effort.
- **Identify lessons from other initiatives designed to improve consumer behaviors.** Financial literacy practitioners can learn from efforts in other fields, such as health and nutrition, that have sought to educate consumers and influence their behavior. Participants discussed similar challenges, such as the difficulty of influencing people to change their behaviors and the possibility of developing a financial literacy equivalent of the Department of Agriculture's "MyPlate" nutrition graphic.

GAO convened a similar forum in 2004. Comptroller of the United States (and head of GAO) Thomas Dodaro has testified before Congress on his personal beliefs on the importance of financial literacy and the role GAO can play in coordinating federal activities in this area.

Additional information, including a link for the full report, is available online: http://www.gao.gov/products/GAO-12-299SP

Industry News

Bankruptcy Attorneys Warn of "Student Loan Debt Bomb"

The National Association of Consumer Bankruptcy Attorneys (NACBA) released a report, "The Student Loan Debt Bomb: America's Next Mortgage-Style Economic Crisis?" The phrase "student loan debt bomb" in the title has caught the attention of the media and the release of this report may result in increased attention for the private student loan bankruptcy legislation currently circulating in Congress, but it remains highly unlikely that either bill (H.R. 2028 or S. 1102) will pass this year.

The report consists of a survey of NACBA members indicating an increase in student debt issues among those seeking counsel on bankruptcy matters. It also includes policy recommendations, such as returning bankruptcy discharge to private student loans immediately, restoring the discharge for federal student loans after a five-year window for a "good faith" effort at repayment, and establishing a "reasonable statute of limitations" for the collection of student loan debt.

Additional information from NACBA, including an audio file from a press call with H.R. 2028 sponsor Rep. Steve Cohen (D-TN), is available online: http://www.nacba.org/Legislative/StudentLoanDebt.aspx

S&P Joins Moody's in Warning of Possible Student Loan Bubble

In a report last week, Standard and Poor's suggested a student loan debt bubble may be on the horizon.

"Student-loan debt has ballooned and may turn into a bubble," S&P said in a report. "There are more defaults and downgrades for some student loan asset-backed securities. The assets in the vast majority of student loan ABS are federally guaranteed (FFELP) loans.

S&P is the second such credit rating agency to use the dreaded "B word" in reference to student loan debt. In similarly couched language last summer, Moody's indicated "talk of a bubble is not without merit."

New America Foundation Examines Federal Loan Interest Rates

The New America Foundation's Federal Education Budget Project released a report this week, "Federal Student Loan Interest Rates: History, Subsidies, and Cost." Here is how the author of the issue brief, Jason Delisle, describes the paper in the introduction:

> *Federal loans account for more than $650 billion of the $845 billion in outstanding student loans.[2] In particular, many observers have questioned the 6.8 percent fixed interest rate the government currently charges on the most widely-available type of federal student loan (Unsubsidized Stafford) given that interest rates on other loans, such as home mortgages, are now at record lows. In the same vein, many are puzzled as to why a temporary reduction on interest rates for a subset of loans (Subsidized Stafford loans) in effect since 2008 expires this year. Relatedly, some observers – including members of Congress – claim that that the federal government is making a profit on student loans because it charges higher rates than it pays to borrow.[3] They point to official cost estimates that appear to show that borrowers receive "negative subsidies" on their student loans.*
>
> *This issue brief examines the claims and arguments outlined above. It explains why Congress set the interest rate on federal student loans at a fixed 6.8 percent rate and why Congress temporarily reduced this rate to 3.4 percent for certain loans. It also argues that federal student loan interest rates are still favorable even in today's low rate environment, and that current rates provide borrowers with subsidies and better terms than are available in the private market. This issue brief disputes the argument that the government's low cost of borrowing suggests that student loan interest rates are unfavorably high for borrowers. It concludes with an explanation of why official cost estimates, which suggest that student loan interest rates earn revenue for the government, do not fully account for the costs of the program.*

In an effort to support his argument that borrowers of federal student loans receive a generous subsidy, Delisle compares the terms and pricing of Stafford Loans with the fixed rate offerings of private lenders. The issue brief also endorses the use of fair-value accounting and states the costs of the Direct Loan program are understated.

The full report is available online:
http://edmoney.newamerica.net/sites/newamerica.net/files/policydocs/Interest%20Rates%20Issue%20Brief%20Final_0.pdf

PHEAA to Provide PSLF Servicing

PHEAA announced its FedLoan Servicing arm has been selected by the U.S. Department of Education to service loans under the Direct Loan Program for borrowers who are eligible to participate in the Public Service Loan Forgiveness (PSLF) Program.

After submitting a completed Employment Certification for Public Service Loan Forgiveness form to FedLoan Servicing, the borrower will be notified if the employment reported meets the qualifying employment standards for PSLF. FedLoan Servicing will provide the borrower with information to help them keep track of their qualifying employment as well as their qualifying payments on their Direct Loans.

The PSLF Program was established by Congress to encourage individuals to enter and continue in full-time public service employment by forgiving the remaining loan balance on their Direct Loans after the borrower has made 120 separate (not necessarily consecutive), on-time, monthly payments beginning any time after October 1, 2007.

The PHEAA press release is available online: http://www.pheaa.org/about/press-releases/2012/feb-2.shtml

ELM Resources Launches New Site

ELM Resources has unveiled a new website which can be found at: www.elmresources.com. ELM's signature products, ELMNet, ELM NDN and ELMSelect, are more prominently displayed on the new website's home page, making it easier for prospective school and lender customers to learn more about ELM and its private loan processing solutions. Current ELM customers can login and navigate to tools and resources directly from the home page, while ELM's lender partners can easily access helpful information via a complete online library of support tools.

Jon Veenis, ELM's Chief Executive Officer and President, comments, "It is fitting for us to begin a new year, our 18th in the industry, with this updated functionality on the web. In the past, we have changed and innovated to adapt to the needs of our school and lender customers, and this year is no exception."

2012 COHEAO Board of Directors

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Robert Perrin
President
Williams & Fudge, Inc.
775 Addison Avenue, Suite 201
Rock Hill, SC 29731
803-329-9791 x 2104
Fax: 803-329-0797
bperrin@wfcorp.com

Past President:
Alisa Abadinsky
Director of Receivables, Loans, and Collections
University of Illinois at Chicago
809 S. Marshfield Ave. M/C 557
Chicago, IL 60612
312-413-1971
Fax: 312-413-1992
aabadins@uillinois.edu

Secretary
Edgar DelosAngeles
Manager, UCI Loan Services
University of California—Irvine
Administration Bldg. Room 101
Irvine, CA 92697-3010
949-824-4689
Fax 949-824-4688
edelosan@uci.edu

Legislative Chair, Institutional
Jackie Ito-Woo
Associate Director, Financial Aid Administration
University of California Office of the President
Student Financial Support
1111 Franklin St., 9th Floor
Oakland, CA 94607-5200
510-987-9544
Fax: 510-987-9546
jackie.ito-woo@ucop.edu

Commercial Member Chair
Karen Reddick
Vice President Business Development
National Credit Management
10845 Olive Blvd
St. Louis, MO 63141
800-627-2300
kreddick@ncmstl.com

Vice President
Maria Livolsi
Director, Student Loan Service Center
State University of New York
5 University Place, A310
Rensselaer, NY 12144
518-525-2628
MLivolsi@uamail.albany.edu

Treasurer:
Bob Frick
President
University Accounting Service
200 S. Executive Drive, 3rd Fl
Brookfield, WI 53005
800-340-1526
Fax: 262-784-9014
bob.frick@ncogroup.com

Legislative Chair
Lori Hartung
Vice President
Todd, Bremer & Lawson
560 Herlong Avenue
Post Office Box 36788
Rock Hill, South Carolina 29732-0512
800-849-6669
Fax: 803-323-5211
lori.hartung@tbandl.com

Legislative Co-Chair, Regulatory
Pamela Devitt
Legislative Analyst, University Student Financial
Services and Cashier Operations
University of Illinois at Springfield
312-996-5885
Fax: 312-413-3453
devitt@uillinois.edu

Financial Literacy Chair
Carl Perry
Senior Vice President
Progressive Financial Services
516 N Production Street (Suite 100)
Aberdeen, SD 57401
800-585-4978
Fax: 800-585-4981
cperry@progressivefinancial.com

Internal Operations
Tom Schmidt
Associate Director of Student Financial Collections & Third Party Billing
University of Minnesota
211 Science Teaching & Student Services
222 Pleasant St. SE
Minneapolis, MN 55455612-625-1082
Fax: 612-624-2873
t-schm@umn.edu

Communications Chair
Micheal Kahler
Regional Vice President, Sales
Windham Professionals
60 Normandy Drive
Lake St. Louis, MO 63367
800-969-0059, ext. 2909
Fax: 636-625-0231
mkahler@windhampros.com

Perkins Task Force Chair
Nancy D. Paris
Vice President, Financial Services Group
ACS, A Xerox Company
900 Commerce Dr Ste 320
Oak Brook IL 60523
630.203.2769
FAX: 630.203.2796
nancy.paris@acs-inc.com

Membership Co-Chair, Institutional
Jeane Olson
Bursar
Northern Arizona University
Gammage Building
Flagstaff, AZ 86011
928-523-3122
Jeane.olson@nau.edu

Membership Co-Chair, Commercial
Rick Wiening
Director of Business Development
Regional Adjustment Bureau
7000 Goodlett Farms Parkway
Memphis, TN 38016
219-937-9760
rwiening@rabinc.com

Membership Development
Michael Mietelski
Regional Director of Business Development
ConServe
200 CrossKeys Office Park
P.O. Box 7
Fairport, NY 14450-0007
800-724-7500 x4450
mmietelski@conserve-arm.com

Member at Large
Laurie Beets
Bursar/Director of Student Loans & Debt Mgmt
Oklahoma State University
113 Student Union
Stillwater, OK 74078
405-744-7776
Fax: 405-744-8098
laurie.beets@okstate.edu

Member at Large
Lettie Clark
Manger, Institutional Loan Program
Gonzaga University
P O Box 3462
AD Box 74
Spokane, WA 99220
(509) 313-6804
Fax: (509) 313-5816
clarkl@gu.gonzaga.edu

Member at Large
Lee Anne Wigdahl
Manager, Loan Administration
DeVry Inc.
814 Commerce Drive
Oak Brook, IL 60523
(630) 645-1178
Fax: 630 891-6292
LWigdahl@devry.edu

Executive Director
Harrison Wadsworth
Principal
Washington Partners, LLC
1101 Vermont Ave. N.W. Suite 400
Washington, DC 20005-3521
202-289-3903
Fax 202-371-0197
hwadsworth@wpllc.net

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COHEAO

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- Letter of accomplishment sent to the graduate and immediate supervisor
- Special identifier on name tag when participating at COHEAO conferences

Criteria for Certification

- Program is based on a point system
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    - 3 points for participation at the COHEAO Mid-Year Conference
    - 2 points for participation at the COHEAO Annual Meeting
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    - 1 point for participation during a COHEAO sponsored Congressional Hill visit or visit to local delegation office
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COHEAO Sparks

Updates on relevant events, hearings, and policy developments from the Coalition of Higher Education Assistance Organizations

February 13, 2012

Highlights of the President's FY2013 Budget:
Budget Again Calls for Perkins "Modernization and Expansion" Through Conversion to Direct Lending

Prepared by:
Harrison Wadsworth (hwadsworth@wpllc.net) & Wes Huffman (whuffman@wpllc.net)

The President today sent his proposal for spending on federal programs new and old to Congress today, an annual event that sets the stage for discussions about what the government should be doing for next the fiscal year. Fiscal Year 2013 starts on October 1, 2012 and runs through Sept. 30, 2013.

The budget proposes a deficit of $1.33 trillion for the year, a fact that will draw a lot of attention and that the Republican opposition is already focused on. The lead-up to this year's budget release has contained more discussion of higher education initiatives than usual, with a Sunday press briefing unveiling a new initiative aimed at providing funding to community colleges via the Departments of Labor and Education.

The budget, for the fourth year in a row, contains a proposal to completely change the Perkins Loan Program, eliminating the current program and replacing it with a new supplemental unsubsidized direct loan program. The new program, labeled Perkins in the budget, would resemble the current program only in that funds to lend would be allocated to participating colleges and universities with a national ceiling on total loan funds available of $8.5 billion per year. Here is how the Administration describes the Perkins proposal in its budget:

> *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 Budget proposes 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, 2013, the 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. This new formula will encourage colleges to control costs and offer need-based aid to prevent excessive indebtedness. Schools would have some discretion 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, beginning at the statutory date described in the Higher Education Act of 1965. 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 2013 outlays by $648 million and are displayed in the Federal Perkins Loan program account.

From the perspective of students, the new proposal is simply a new unsubsidized Stafford Loan program. The terms and conditions of the loans, as proposed by the Administration budget, would be exactly the same as unsubsidized Stafford loans. The same servicing contractors that now bill and collect for the Direct Loan Program would carry out all servicing of the new direct Perkins loans.

The Administration is using this proposal as a way of saying that it wants to pressure institutions of higher education to hold down their prices and graduate more students from low-income backgrounds. Details are not provided, but the outline is that some of the new direct loan allocation would be based on where the institution ranked in its net price increases compared to its peers. Another share of the allocation would be based on how many Pell Grant recipients were graduated by the institution. The rest would be based on total need of the institutions students.

The Administration is also using this proposal to provide for budgetary savings aimed at Pell Grant funding for 2014-2015 and beyond. In addition to the Perkins to Direct Loan conversion, the budget proposes limiting Stafford Loan eligibility to 150% of academic program length as well as changes to the payment of guarantors for rehabilitated loans. The collection fees guarantors can assess on defaulted loans would be reduced to 16% and their retention share of these loans would also be eliminated. In removing these "excessive payments" to GAs, expanding Perkins via Direct Lending, and reforming subsidized Stafford eligibility, the Administration claims these moves will generate more than $14 billion in budgetary savings which could be put toward Pell Grants and/or preventing the interest rate spike on Subsidized Stafford Student Loans.

For COHEAO members, it is extremely important to note that the President's FY 2013 budget is just a set of suggestions and requests. It is not law, and most of it, including the "Direct Perkins Loan" proposal, cannot be put into effect unless Congress changes the law.

The House of Representatives, which is controlled by Republican opponents of the President Obama, has shown no interest in the Direct Perkins proposal, and Congress was not able to pass it even when controlled by the Democrats, the president's allies, in 2010. Therefore, it is important to continue to follow the directive of the Department of Education, as re-stated explicitly on Jan. 30,2012 at the COHEAO Annual Conference: the traditional Perkins Loan Program continues to operate normally and institutions should make loans to their students and should make sure they are not holding excess cash in their Perkins Loan funds. Excess cash may be seized by the Department.

The *National Journal* had the following perspective in an article that appeared over the weekend:

> "*If there was ever a year to ignore the president's annual budget proposal, this is it.*
>
> *The White House plan to be released on Monday is a starting pistol in a long budget fight more than it is a blueprint for a Congress that mostly ignores the plan.*
>
> *The gun will be more muffled than ever this year. That's because lawmakers have already agreed on a fiscal 2013 discretionary spending cap that both sides acknowledge will be what appropriators use as a limit for the year.*

*Democrats say the $1.047 trillion cap, included in last year's Budget Control Act, is for all intents and purposes, a budget. That is what Senate Majority Leader **Harry Reid**, D-Nev., insisted when he said he will not bring a fiscal 2013 budget resolution to the floor, even if the Senate Budget Committee passes one."*

The budget has been available for less than an hour. COHEAO will continue to pore through the data and proposals and provide you with information through Sparks throughout the week and/or the upcoming *Torch*, which is scheduled for publication on Friday, February 17.

- Additional information on the Budget is available online: http://www.whitehouse.gov/omb/budget/Overview
- The Budget Appendix, which contains scores of data behind the President's budget and proposals, is available online: http://www.whitehouse.gov/omb/budget/Appendix

COHEAO Sparks

Updates on relevant events, hearings, and policy developments from the Coalition of Higher Education Assistance Organizations

February 14, 2012

Additional Information President's FY2013 Budget Request:
Current Program & "Unsubsidized Perkins" to Operate Concurrently? At Least Initially

Prepared by:
Harrison Wadsworth (hwadsworth@wpllc.net) & Wes Huffman (whuffman@wpllc.net)

COHEAO would like to provide some additional information to Monday's Spark about the President's Perkins Loan proposals in his FY2013 budget. Reading through more of the several detailed documents on the budget proposal, the Administration has actually made one change to its proposals of the past three years on Perkins Loans. The budget calls for continuation of the current Perkins Loan Program through the "statutory date described in the Higher Education Act," which would under Department of Education interpretations of the law, mean the current program is authorized to continue until October 1, 2015 unless Congress acts to update the HEA sooner. If that date arrives and Congress has not completed the HEA reauthorization process, then it likely would be extended for long enough for Congress to complete its work, along with the other student aid programs in the HEA. This is what happened during the last reauthorization process in the 2000s, when Congress passed almost two dozen extensions of the programs before the reauthorization was completed in August 2008.

This is a significant change from the Administration's previous position and actually brings it close to the position COHEAO has been advocating: continuation of the current program remains important to students and is a separate issue from proposals to create a new supplemental Direct Loan Program, whatever its name. As we noted yesterday, the Administration's proposal for a new supplement Direct Loan Program, which they are now naming "Unsubsidized Perkins Loans" in the budget documents, remains quite similar to what was suggested last year in the FY2012 budget, with $8.5 billion in new loan authority allocated to schools by the federal government based on how many low-income students they graduate and how well they hold down their prices.

Terms and conditions of the loans would be the same as with the unsubsidized Stafford Loan Program, a fact recognized in the new name. The budget proposes starting the new unsubsidized program on July 1, 2013. Interestingly, the White House has changed its estimates of future interest rates, apparently lowering them, so that the Unsubsidized Perkins Loan Program is projected to "save" more than predicted last year: $685 million in FY2013 and apparently similar amounts in future years. This savings (actually revenue earned from interest and origination fee payments by students) would apparently be used, under the Administration plan, to offset the cost of a one-year extension of the 3.4% interest rate on subsidized Stafford Loans.

We note again that the current Perkins Loan Program will continue without Congressional action, but that legislation creating a new Unsubsidized Perkins Loan proposal would have to be passed by Congress before it can take effect. Congress seems unlikely to do so this year, especially since the method of calculating the costs of federal credit programs favored by the House of Representatives projects that the Unsubsidized Perkins Loan proposal would lose money, not make it.

COHEAO will continue to keep you updated on this and other issues from Washington. We urge all schools with Perkins Loan Funds to continue making loans to their students.