The Torch

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

COHEAO News

- **COHEAO Advocacy Efforts Showing Early Returns**
  In the early stages, our Perkins advocacy questions have already showing results, producing questions from Congress to the Department on its plans for Perkins Loans.

The Congress

- **Duncan Appears Before Education and Workforce Committee to Defend FY13 Obama Budget**
  Secretary Duncan appeared before the House Education and the Workforce Committee on the Administration's FY 2013 budget.
- **Sens. Durbin and Harkin Introduce "Know Before You Owe Act of 2012"**
  Senate HELP Committee Chairman Tom Harkin (D-IA) and Senate Majority Whip Dick Durbin (D-IL) introduced the "Know Before You Go Act," which would add require school certification of private student loans, but would also add new requirements for lenders and institutions of higher education.
- **Durbin Convenes Multiple Student Loan Hearings**
  Senator Durbin convened multiple hearings on student debt in the past two weeks.
- **GOP Seeks GAO Investigation on Direct Loan Implementation, Letter Cites Concerns with Collections**
  Republicans in the House and Senate jointed together to write the GAO seeking an investigation on the implementation of the Direct Loan program for all colleges and universities.
- **House Republicans Pass Budget Resolution**
  The House passed its budget resolution in a strictly partisan vote – all but 10 Republicans voted for it and all Democrats voted against it.

The Administration

- **Student Loan Negotiated Rulemaking: Consensus Reached, Non TPD or IBR/ICR Issues Will Not Take Effect Until 2014**
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Industry News

- **Media: The Bloomberg Article on Student Loan Collections**
  An article on student loan collections, particularly as it pertains to rehabilitated loans, was popping up all over the place this week.
- **Council on Foreign Relations Highlights Potential Impact of Direct Loans on Gross National Debt**
  Through its Center for Geoeconomic Studies, the Council on Foreign Relations highlighted the possible long-term impact of the Direct Student Loans on the gross national debt.

Attachments

- **Board of Directors**
- **COHEAO Commercial Members**
- **Special Attachment: Summary of Senate Subcommittee Hearing on Student Debt**

COHEAO News

COHEAO Advocacy Efforts Showing Early Returns

Recently, the COHEAO Perkins Task Force held an open call to discuss advocacy strategies for the Perkins Loan Program for the upcoming year. As COHEAO members know, the top two priorities for supporters of the current Perkins Loan Program are maintaining the program in the face of calls for its elimination from the Obama Administration and ensuring the federal government begins to fulfill its obligations on loan cancellations.

On the call, COHEAO Executive Director Harrison Wadsworth and Perkins Task Force Chair Nancy Paris, encouraged Perkins advocates to engage their Senators and Representatives, but also reiterated that legislative success is a gradual process.

In the early stages, our Perkins advocacy questions have already showing results. Rep. Lucille Roybal-Allard (D-CA) expressed concern about the proposed overhaul for Perkins that would increase interest rates, eliminate public service cancellations and be more expensive for student borrowers. Duncan said the intent was to expand the program to more schools and students and increase the loan volume. He did not answer the question about cost.

In addition, COHEAO met with several Members of the Education and the Workforce Committee in advance of this week's hearing and we expect the Department will receive multiple Perkins Loan questions in writing (Committee members have 14 days to submit their questions and/or clarify their remarks for the record).

The Congress

Duncan Appears Before Education and Workforce Committee to Defend FY13 Obama Budget

Secretary Duncan appeared before the House Education and the Workforce Committee on the Administration's FY 2013 budget. Student loans, particularly the pending CCRAA-caused Stafford Loan interest rate spike and a bicameral Republican letter on administration of the Direct Loan program, were often discussed.

Rep. John Kline (R-MN), Chairman of the Committee, expressed concern with the Obama budget's expansion of the federal role in education. He also spoke to the origins of the pending CCRAA interest rate spike, and warned of Congress meddling with interest rates, while stating Congress and the Department must work together to tackle the root causes of tuition increases. Ranking Member George Miller (D-CA) offered his support for the FY2013 Administration budget and warned the House budget resolution would have dire consequences for education.

Secretary Duncan began by restating a viewpoint that he shared with President Obama—everyone should get a "fair shot and play by the same rules." He was also highly critical of the Ryan Budget, arguing it balances the budget "on the backs of children."

Turning to higher education, he talked about the importance of the Pell Grant program and all other federal aid for postsecondary education. After discussing Pell and the pending Stafford rate spike, here is what Duncan had to say on the plans for expanding Perkins and campus-based aid:

Second, we would expand and reform the Campus-Based Aid programs—Supplemental Educational Opportunity Grants (SEOG), Federal Work-Study, and Perkins Loans—to provide $10 billion in student financial aid for use at those colleges that provide the best value to students by enrolling and graduating students from low-income families, restraining net prices, and demonstrating good value. Most of this expansion would come through reform of the Perkins Loan program, which would be operated similarly to the current Direct Loans program. We also are asking for a $150 million increase for Federal Work-Study, for a total of more than $1.1 billion, to support reforms that would encourage postsecondary institutions to offer students more meaningful work-study opportunities that will help to prepare them for work and life after graduation. This increase would start moving us toward our goal of doubling work-study opportunities for students within 5 years.

Duncan did not mention the increase in costs for current Perkins Loan borrowers, but Republicans were quick to point it out. Here is what they said in a press release on the budget hearing:

Rhetoric: The Obama budget "improve[s] affordability and quality in higher education" by extending the lower Stafford Loan interest rate for one year.

Reality: The Obama budget plays a shell game with interest rates, temporarily dropping one type of loan interest rate in exchange for permanently raising another.

In July, undergraduate students will see their subsidized Stafford Loan interest rates double, thanks to a poorly conceived legislative initiative advanced by Democrats in 2007 that temporarily phased the interest rate down over four years. In an effort to delay the rate increase, the president has proposed maintaing the 3.4 percent rate for one additional year. ***As Secretary Duncan told the Appropriations Committee, "it would be inappropriate to raise rates and burden students with greater debt."***

The Congressional Budget Office estimates extending the low Stafford Loan interest rate for one year will cost as much as $6 billion, and in these times of trillion-dollar deficits, that money isn't easy to come by. ***And while the administration pays lip service to the importance of lowering student loan interest rates, hidden in the president's budget is a separate request to raise the interest rate on a different student loan program.*** *That's right, in his FY 2013 budget request, the president proposes to turn Perkins Loans into an unsubsidized Direct Loan, and raise the interest rate on a loan that was originally designed to help the neediest students.*

With ESEA waivers as such a hot topic, most of the hearing was devoted to P-12 education. However, given Duncan's testimony, which indicated that addressing the interest rate issue was part of a "make or break moment for the middle class," and it is an election year, the topic of college costs came up quite frequently.

Members from both parties, save for Rep. Todd Platts (R-PA) who expressed support for the Perkins expansion and lowering Stafford rates, essentially spoke to their ideologies in a partisan tone throughout the hearing—Republicans would suggest all of the additional federal funding is fueling tuition costs, while Democrats would point to the Ryan budget as disastrous for students, particularly in terms of college access.

There were no specific Perkins Loan questions in the oral questions. However, Rep. Tim Bishop (D-NY) did express a level of concern with the formula for campus-based funding, which the budget calls for tying to college "affordability."

The hearing was one of a series on the budget and they will continue throughout the spring. Most likely, a partisan tone will be struck throughout most of these hearings throughout the election year.

Additional information on the hearing is available online:
http://edworkforce.house.gov/Calendar/EventSingle.aspx?EventID=285605

Sens. Durbin and Harkin Introduce "Know Before You Owe Act of 2012"

Senate HELP Committee Chairman Tom Harkin (D-IA) and Senate Majority Whip Dick Durbin (D-IL) introduced the "Know Before You Go Act," which would add require school certification of private student loans, but would also add new requirements for lenders and institutions of higher education.

Specifically, the Know Before You Owe Act of 2012 would require private lenders to:

- Certify with the borrower's school that the student is enrolled and the amount the student is eligible to borrow before issuing a private loan;
- Provide the borrower with quarterly updates on their loans, including accrued but unpaid interest and capitalized interest; and
- Report information to the Consumer Financial Protection Bureau about their student loans.

The Durbin-Harkin bill would require institutions of higher education to:

- Inform students about their federal financial aid availability and eligibility; their ability to select a private lender of their choice; the impact of a private loan on their eligibility for other forms of financial aid; and their right to accept, reject or cancel a private loan as allowed under current law; and
- Inform students about the terms and conditions of federal and private student loans.

One bright spot for the legislation is that it does eliminate the HHS loan debacle, in which the Congress and Federal Reserve decided to define the federal student loans from the Department of Health and Human Services as "private education loans." However, unfortunately, the Senators are very concerned with institutional loan programs, particularly those at proprietary institutions, and, as currently drafted, these new requirements would also apply to the low-cost loan institutional loan programs at COHEAO member colleges and universities.

The press release and accompanying materials from Durbin's office on the legislation would likely be considered inflammatory by most private student lenders. For instance, the press release was headlined as a "Student Debt Bomb Alert," borrowing a phrase from the oft cited title of a report from the National Association of Consumer Bankruptcy Attorneys calling for the dischargeability legislation, which would create a whole new space of opportunity for its members. It also contained many statements which private lenders would likely consider to be, at a minimum, of highly questionable veracity.

Here is a list of organizations supporting the legislation: American Association of Collegiate Registrars and Admissions Officers, American Association of State Colleges and Universities, American Federation of Teachers, American Medical School Association, Campus Progress Action, Consumer Action, D?mos, Education Trust, National Association for College Admission Counselors, National Association of Student

Financial Aid Administrators, National Consumer Law Center, National Consumers League, National Council of La Raza, The Institute for College Access & Success, U.S. Public Interest Research Group and United States Student Association.

Information from Sen. Durbin's office on the "Know Before You Owe Act of 2012" is available online: http://durbin.senate.gov/public/index.cfm/pressreleases?ID=12fd3417-6347-4f0d-b768-8eba13ddc0b5

Durbin Convenes Multiple Student Loan Hearings

Last Tuesday, the Senate Judiciary Subcommittee on Administrative Oversight and the Courts convened a hearing, "The Looming Student Debt Crisis: Providing Fairness For Struggling Students." Senator Durbin also used the Senate Financial Services and General Government Subcommittee's appropriations hearing to highlight student loan debt and foreclosures. Treasury Secretary Tim Geithner said the Administration wanted to work with Durbin on private loan issues, but steered clear of endorsing his bankruptcy legislation. A summary is included with today's edition as a special attachment.

In his opening remarks, Durbin indicated student loan debt outstanding totaled $1 trillion last year, outpacing credit card debt, and suggested the US "faces a serious problem with student debt." Durbin also claimed that private student loans are a "far riskier way to pay for education," as they come with higher interest rates and origination fees, while offering few repayment options. However, though Durbin urged support of S. 1102 and encouraged the Consumer Financial Protection Bureau to continue its work on private loans, much of the hearing zeroed in on for-profit education.

Lisa Madigan, Attorney General for the State of Illinois, addressed her office's work in regulating the for-profit sector, particularly Westwood College. Madigan indicated some for-profit schools skirt the 90/10 rule on federal aid by expanding institutional loan programs. She also said students at these schools often did not understand the terms and conditions of private education loans and suggested they would be much better served by community colleges. Madigan was followed by Jack Conway, Attorney General for the Commonwealth of Kentucky who is leading a multi-state investigation into the sector.

Deanne Loonin of the National Consumer Law Center testified that it is a misconception that bankruptcy has been abused in the past by student borrowers. She argued her distressed clients would rather avoid bankruptcy and look for alternatives. However, she also suggested private lenders are unwilling to provide relief and concluded her remarks by "it is time to provide relief to student loan borrowers."

Marcus Cole, Professor of Law at Stanford University, testified that student loans are fundamentally different than other borrowing. Unlike in other consumer borrowing, student borrowers are borrowing against their future ability to repay, not their current situation or assets. Cole indicated this unique form of financing needed protection to encourage lending and also argued student loans are essential in providing college access and opportunity.

Daniella Jokela offered a student perspective, sharing her difficulties with student loan debt following extensive financing for an interior design degree. Jokela said she relied on the information provided by her school, a for-profit, and there was very little discussion on debt loads or the monthly payments required to meet her obligations. Jokela said she had few job prospects and $100,000 in student debt which continues to impact her financial life on a daily basis, in particular through the $800 per month she pays on her student loans.

Neal P. McCluskey, Associate Director, Center for Educational Freedom at the Cato Institute, urged the committee to look beyond private loans and examine the root of the problem—the federal loan programs and too much financial aid. McCluskey pointed to numerous studies from conservative organizations suggesting tuition inflation is the result of rising government subsidies.

GOP Seeks GAO Investigation on Direct Loan Implementation, Letter Cites Concerns with Collections

Republicans in the House and Senate jointed together to write the GAO seeking an investigation on the implementation of the Direct Loan program for all colleges and universities.

In the letter, the House and Senate leaders state concerns about rumored implementation challenges facing the Direct Loan program, and ask the GAO to provide information about the Department of Education's administrative and debt collection processes. It was signed by House Education and the Workforce Chairman John Kline (R-MN), Subcommittee on Higher Education and Workforce Training Chairwoman Virginia Foxx (R-NC), Representative Judy Biggert (R-IL), Senate Committee on Health, Education, Labor, and Pensions (HELP) Ranking Member Michael B. Enzi (R-WY), Senator Lamar Alexander (R-TN), and Senator Tom Coburn (R-OK).

An excerpt from the letter is below:

> *[W]e are increasingly concerned the department may not be appropriately managing student debt, particularly when helping borrowers who have defaulted on their loan payments.*
>
> *Under the Direct Loan program, borrowers who are in default can "rehabilitate" their loan and return their credit to good standing by making a certain number of consecutive payments on their loans. Unfortunately, we recently heard from a borrower who claims to have made the required amount of on-time payments in an effort to rehabilitate his loan, but, due to the department's delays, is unable to remove the black mark of default from his credit report and take advantage of better repayment options.*
>
> *As part of our oversight responsibilities, it is important for us to understand challenges with the Direct Loan program. Bureaucratic problems within the department that are creating additional issues for borrowers could have serious implications not only for the Direct Loan program, but also for the financial stability of all student loan borrowers.*

For a press release, including the full letter, see:
http://edworkforce.house.gov/News/DocumentSingle.aspx?DocumentID=287346

House Republicans Pass Budget Resolution

The House passed its budget resolution in a strictly partisan vote – all but 10 Republicans voted for it and all Democrats voted against it. Democrats suggest the House Budget Resolution backs away from an overall spending agreement in the Budget Control Act. And now, some observers are predicting Budget Committee Chairman Paul Ryan's budget may preclude another showdown over government spending around October 1, the start of the new fiscal year and about a month before the elections.

The resolution assumes 6.8% interest rates on all Stafford loans and requires fair value accounting for budget scoring on federal credit programs. It also would eliminate the mandatory funding for Pell

Grants that was created by the SAFRA bill and makes an overall reduction in spending on education programs.

Specifically to Perkins Loans, the program would eliminate the administrative payment allowance for campus-based aid programs and the $5 per grant administrative costs provided to institutions for the Pell Grant program. The budget removes the expansion of income-based repayment (IBR) in the SAFRA legislation, drops the maximum Pell Grant to $5,550 and moves the entire program to the discretionary side of the budget. It also eliminates mandatory funding for not-for-profit servicers, as established in SAFRA and rescinds the mandatory funding for the College Access Challenge Grant program.

For more information, visit:
http://budget.house.gov/News/DocumentSingle.aspx?DocumentID=288099

The Administration

Student Loan Negotiated Rulemaking: Consensus Reached, Non TPD or IBR/ICR Issues Will Not Take Effect Until 2014

The student loan negotiated rulemaking concluded today, with the negotiators reaching consensus. At times this week, the path to consensus looked shaky.

A *Bloomberg* article heavily critical of student loan collection agencies, particularly in terms of rehab loans, was circulated by one of the consumer-group representatives at the negotiated rulemaking, Deanne Loonin, who was also quoted in the piece. There were a few contentious issues throughout the week, chiefly involving the consumer and student group representatives pushing for easier access to income-based repayment for defaulted borrowers and resisting financial penalties on IBR borrowers who miss the deadline to provide financial information to their loan servicer. The definition of "reasonable and affordable" payment under IBR was also highly debated, but Loonin backed off her demand that IBR always be the first choice for borrowers seeking hardship status after guaranty agency representatives made the case that more flexible terms are often available that would benefit borrowers.

Notably, the Department announced that while the negotiations on all 25 issues will be completed this week, it only plans to publish final rules on five by Nov. 1, 2012, the five that are the top priorities of the Obama Administration. Those are to make available this spring the more generous IBR terms that were supposed to take effect in 2014 and to improve the application process for recognition of borrowers' total and permanent disability. The other 20 issues will have final regulations published later, which means they will take effect on July 1, 2014.

A more detailed report will be shared with COHEAO members in the near future.

Industry News

Media: The Bloomberg Article on Student Loan Collections

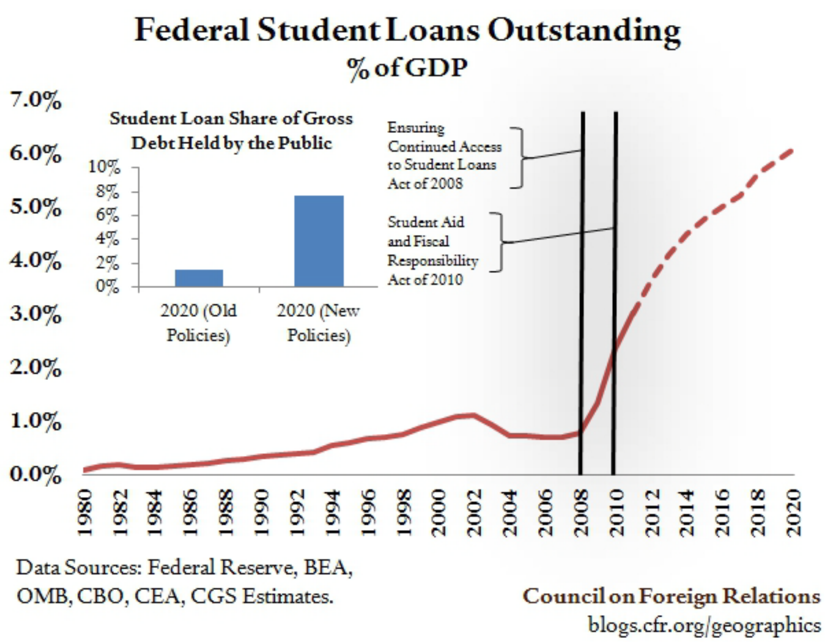
An article on student loan collections, particularly as it pertains to rehabilitated loans, was popping up all over the place this week. First, Deanne Loonin of the National Consumer Law Center, who was quoted in the piece, was circulating it an advance of negotiated rulemaking. Then, House Republicans picked up on the article, citing it in their letter to the Department of Education on the administration of the Direct Loan program.

As Chad Echols stated on yesterday's COHEAO webinar, the *Bloomberg* article represented a classic case of "anecdotal journalism," the art of taking one consumer's situation and hypothesizing similar things are happening on a large scale basis. *InsideARM*, a collection trade publication, also published a well-crafted rebuttal.

The article from *Bloomberg* is available online: http://www.bloomberg.com/news/2012-03-26/obama-relies-on-debt-collectors-profiting-from-student-loan-woe.html
The article from *InsideARM* is available online: http://www.insidearm.com/daily/debt-collection-news/debt-collection/student-loan-debt-collection-market-attacked-by-bloomberg/?utm_source=WhatCountsEmail&utm_medium=2012%20Insider%20Daily%20and%20Weekender&utm_campaign=ARM%20Insider%20-%203-26-12

Council on Foreign Relations Highlights Potential Impact of Direct Loans on Gross National Debt

Through its Center for Geoeconomic Studies, the Council on Foreign Relations highlighted the possible long-term impact of the Direct Student Loans on the gross national debt. The chart and accompanying text is included below:



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With a pair of new laws in 2008 and 2010, Congress fundamentally changed the student loan market, making the U.S. government the sole supplier of Federal student loans, rather than just the ultimate guarantor. In itself, this does not affect the government's net debt, because it acquires assets—student loans—which carry a market value. This new direct lending does, however, add to the gross debt held by the public. The $1.4 trillion in direct federal student loans that will be outstanding by 2020 will amount to roughly 7.7% of gross debt. This is 6.3 percentage points higher than it would have been had the scheme not been nationalized. To the extent that one worries about debt from the perspective of a "fiscal crisis," *in which government borrowing costs soar without warning, gross debt is more important than net debt, as student loans are not assets that can be readily sold to reduce borrowing requirements.*

Additional information is available online: **http://blogs.cfr.org/geographics/2012/03/05/debtwoe/**

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AMO Recoveries, Inc

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Credit Control, LLC

Credit World Services, Inc.

Delta Management Associates

Education Assistance Services, Inc

Educational Computer Systems, Inc.

Enterprise Recovery Systems, Inc.

Bonded Collection Corporation, Inc.

Financial Asset Management Systems, Inc.

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National Credit Management

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