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Action /Information Item

Governmental Relations Committee

Federal Issues Update

Enclosed is a summary of federal issues currently being tracked by Commission staff and considered during the current Congressional Session.

Recommended Action: For information and consideration of actions on proposals affecting the Commission's programs.

Responsible Staff: Steve Caldwell, Chief Governmental Affairs and Research Division

FEDERAL ISSUES UPDATE

Discussions related to higher education in the federal front revolve around the following priorities:

- Simplify the FAFSA – reduce the use of paper FAFSAs;
- Control college tuition costs;
- Increase institutional accountability;
- Make college costs and financial aid transparent;
- Encourage more students toward Math and Science; and
- Control Pell costs.

The College Access and Opportunity Act

The College Access and Opportunity Act, the bill that would complete the reauthorization of the Higher Education Act, passed in the House of Representatives on March 30 by a vote of 221 to 199, moving the reauthorization process one step closer to reality. The vote was largely along party lines, with 14 Democrats voting for the bill and 18 Republicans voting against it.

The bill was considered under a "structured" rule that resulted in over 80 amendments proposed by members of both parties not being ruled in order. Among the amendments rejected by the House Rules Committee was an amendment by Representative Thomas Petri (R-WI) based on the Student Aid Reward Act, H.R. 1425. Under the amendment, schools would be paid to shift their FFEL loan program volume to Direct Loans with the payment made with projected budgetary savings reflecting the lower cost scored by the Congressional Budget Office of Direct Loans as compared to FFEL loans.

One of the few controversial amendments offered to the bill was an amendment in the nature of a substitute offered by Rep. George Miller (D-CA). Under Miller's amendment, borrower interest rates on subsidized Stafford Loans would be reduced from the 6.8 percent scheduled to go into effect on July 1 to 3.4 percent. The amendment failed by a margin of 220-200.

In achieving passage of the bill, House Education and the Workforce Committee Chairman Howard "Buck" McKeon (R-CA) initially faced strong opposition from the higher education community based on provisions in the bill relating to transfer of credits, institutional accreditation and college costs. McKeon accepted changes to the provisions in H.R. 609 as part of an effort to soften community opposition.

With the House bill approved, the community is looking to the Senate for action on its version of the legislation, S. 1614. Senate Health, Education, Labor and Pensions Chairman Mike Enzi (R-WY) has not announced when the Senate might take up the bill, but insiders believe it could come up in late April, shortly after Congress returns from a two-week spring recess.

The Higher Education Act

On April 1, 2006, the President signed into law another extension of the Higher Education Act (HEA). H.R. 4911, the known as the Higher Education Extension Act of 2006, extends current HEA provisions until June 30, 2006.

FY 2007 Budget Resolution

On March 29, the House Budget Committee marked up and passed its Fiscal Year (FY) 2007 budget resolution. The resolution was approved on a 22-17 party line vote. Overall, the measure takes the President's proposed level of total discretionary spending -- $873 billion. This level is approximately $10 billion less than the Senate's resolution that passed earlier this month.

The resolution calls for $6.8 billion in budget reconciliation in FY2007 and instructs the Education and the Workforce Committee to obtain approximately $1.3 billion in savings. Reports indicate that the assumption is that the savings will come from modifications to pension programs under the committee's jurisdiction; however there is no specific language of where the savings will come from in the resolution.

The Deficit Reduction Act

On March 30, the Coalition of Higher Education Assistance Organizations (COHEAO) held a teleconference on the Department of Education's interpretation of the Deficit Reduction Act of 2005 (S. 1932). The call focused on aspects of the S. 1932 that apply to loan rehabilitation, return of Title IV aid, and a heavy focus on the new PLUS loans for graduate students.

The Department also discussed plans for releasing guidance on the Academic Competitiveness Grants (ACGs) and SMART grants. The Department's plan is to release guidance on implementing the new grant programs, scheduled to come into effect on July 1, 2006, within the next month to six weeks. While the guidance is far from finished, it will apparently feature a "student-centric" approach to defining a "rigorous high school curriculum" – an eligibility requirement for ACGs. Clarifying on what this means, the Department indicated that in the first year, this will mean that students themselves will decide if they went to a "rigorous" high school or not. In the future, the Department hopes to be able to check the students' high school with lists of rigorous high school curriculums as defined by states.

The Department also made clear that current Master Promissory Notes will remain in use, with an addendum that will reflect the revised loan terms attached as of July 1, 2006. Plain language disclosures will not be affected.

DC Lobby Reform

After months of posturing from both sides of the aisle, the Senate passed a lobby reform bill this week. The measure passed by margin of 90-8. In spite of the overwhelming margin of passage, several Senators expressed concern that the legislation did not go far enough.

While some feel the bill does not go as far enough, it does provide for greater transparency from lobbyists and lawmakers, bans all gifts and meals, requires more disclosure and transparency in the earmarking process and further regulates the interactions of lobbyists and Congress.

For its part, the House of Representatives will begin to mark up its own lobbying reform next week. Republican leadership of the House did announce this week that the campaign finance issues surrounding the 527 groups would be handled as a separate matter from lobbying reform. The decision averted what could have been a conference committee showdown over the issue.

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The Commission on the Future of Higher Education

The United States' Secretary of Education's Commission on the Future of Higher Education announced that it will hold its next public meetings on April 6-7 at the Hilton Indianapolis and on May 18-19 in Washington D.C. The agenda for these meetings include panel discussions on topics including affordability, accreditation, articulation and accountability and will feature panelists from the education and business communities. Transcripts and webcasts of all full commission meetings may be accessed on the Department's website at: http://www.ed.gov/about/bdscomm/list/hiedfuture/index.html.

Per-Student Spending on Higher Ed at 25-Year Low

According to a report from the State Higher Education Executive Officers, an association of top ranking state higher education officials, state and local per-student spending on higher education was at its lowest in 25 years during FY2005.

Overall spending increased from FY2004 to FY2005 by 3.5 percent, however when enrollments and inflation are factored in, per-student spending actually decreased by 1.9 percent, according to the report. Over the same year, tuition increased by 7.7 percent per-student.

It is interesting to note that, the 25-year high in public higher education spending occurred only four years prior to the 25-year low. State and local spending topped out at $7,121 (in 2005 dollars) per-student in FY2001. However, 14 percent increases in both inflation and enrollments have driven down per-student spending to its current level of $5,833.

News from NASFAA

Details of New Grant Programs Revealed by ED at NASFAA'S 2006 Leadership Conference

More than 80 financial aid administrators convened March 5 to 7, 2006 in Washington, D.C. to discuss current federal aid policy and best financial aid practices at the annual NASFAA Leadership Conference.

The conference provides state and regional association leaders and future leaders with the nuts and bolts on how to successfully administer associations. It also allows them to network and share ideas with other leaders across the country.

The Deficit Reduction Act that President Bush signed into law on February 8 was a hot topic at the conference. Many of the student aid provisions in the bill were enacted to go into effect on July 1, giving financial aid administrators and the Department of Education little time to make the necessary changes to adopt the provisions in a consistent manner.

How the Department would distribute and administer the $790 million available this year for two new grant programs—Academic Competitiveness Grants and Science and Mathematics Access to Retain Talent (SMART) Grants—was a top concern for conference attendees. (A summary of the programs appears below.) Five representatives from the Department attended the conference: Jeff Baker, Kay Jacks, and Claire "Micki" Roemer from Federal Student Aid and David Bergeron and Anthony Jones from the Office of Postsecondary Education. Baker, Jacks, and Bergeron addressed the conferees to shed some light on how ED would implement the new grants.

The Department's Guidance Schedule

The ED officials highlighted three dates when aid administrators should receive Department guidance on the two programs.

- Within the "next couple weeks" the Department will issue a Dear Colleague Letter (DCL) to institutions providing a "high-level view" of how the Department will implement new programs.
- By May 1 the Department will issue final regulations, closely modeled on the existing Federal Pell Grant Program regulations. There will be no Notice of Proposed Rulemaking (NPRM) to request public comment and the rules will not be subject to the negotiated rulemaking process. However, a Department official indicated that the negotiated rulemaking process make be conducted later. The final rules issued on May 1 are likely to apply for at least two years.

- By July 1 the Department will complete the process of identifying what qualifies as a rigorous high school curriculum, which students will have to complete to be eligible for the Academic Competitiveness Grants. The Department also plans to set up a Web site and contact protocol for students who believe their high school curriculum was rigorous but is not included on the Department's list. The Department's intent is to keep postsecondary schools from having to deal with any such challenge by students.

Identifying and Awarding Eligible Students

Perhaps the biggest challenge facing the Department and aid administrators will be identifying, verifying, and informing students who will be eligible for the new grants. A Department official said that ED budget estimates show 60% to 80% of first- and second-year qualifying Pell Grant recipients will be eligible for more grant aid under the new Academic Competitiveness program. The Department is accumulating data to estimate more accurately how many students will be eligible for the new aid.

To qualify for either grant program a student must be a U.S. citizen and be enrolled full-time in a degree-granting program. Academic Competitiveness Grants will be given to first- and second-year students who have taken a rigorous high school curriculum and have not been enrolled previously in an undergraduate program. The law also specifies that first-year grant recipients must graduate high school after Jan. 1, 2006, and second-year grant recipients graduate high school after Jan. 1, 2005. Second-year grant recipients must also retain at minimum a 3.0 overall GPA. SMART Grants will be given to third- and fourth-year students pursuing a degree in math, science, technology or certain foreign languages, who maintain at least a 3.0 in the classes required for that major.

The Department officials revealed an outline for how it will institute the new grant programs, although they are still working on the details. In designing the process, the Department plans to utilize the existing Pell Grant system to administer the new grants as much as possible to ease the transition.

Under the outline, the Department identifies Pell Grant recipients who appear to qualify for the new grants and notifies these students of their possible eligibility for the grants. The student then self-identifies his or her potential eligibility through an addendum to the FAFSA. Financial aid administrators would also be able to update the FAFSA for their students. Department officials indicated they would provide an amended paper version of the FAFSA for students who did not fill out the FAFSA on-line. The Department would then notify the school, although it remains unknown exactly how that will be accomplished. The school then verifies the student's qualifications to ensure the student is eligible. If the student is eligible, the school notifies the Department through the Common Origination

and Disbursement (COD) system. The Department then provides the grant allocation to the school. There will not be a pre-allocation, according to the Department officials.

Verification Challenges

As with everything, the devil is in the details. Financial aid offices face a number of challenges to verify that students applying for the new grants meet the academic eligibility requirements. Financial aid administrators will package and deliver the new grants, but the academic requirements will likely require aid offices to communicate with admissions offices and registrar offices for information that may differ from information that is currently exchanged between those offices.

A Department official noted that the biggest challenge for the Department would be to classify what constitutes a rigorous high school curriculum. Officials said they hope to use existing state programs that recognize rigorous curricula and that the Department's secondary education department was working to create a list of qualifying curricula. Verifying that a student has completed one of these curricula will be a significant administrative challenge for schools, especially schools that don't currently track student participation in specific high school curricula.

Verifying first- and second-year student high school graduation dates could also be a challenge for some schools. The Department has no way of identifying a student's graduation date because it is not required on the FAFSA. They will try to identify eligible students by their age and rely on the institutions to provide graduation date verification. Many institutions have this information, but some do not require it for admission.

Gray Areas

Many of the eligibility requirements outlined by the legislation are vague at best and conference attendees had a number of questions that Department officials could not answer because they are currently working out details.

Using state-recognized high school curricula as a benchmark for a rigorous curriculum raised a number of concerns among conference attendees who wondered whether private and home school curricula are appropriately recognized by the state. The legislation seems to exclude students from these schools from eligibility for the Academic Competitiveness Grant, but officials assured conference attendees that they were working to accommodate those students. Officials said the Department is looking into creating alternative standards for students from private and home schools, such as standardized test scores.

The provision that keeps students who have previously been enrolled in an undergraduate degree program from being eligible for either grant program raised concerns that students who are dually enrolled in college while they are still in high school would not be eligible for the grants once they entered college. Department officials assured attendees that they did not think that was the intent of the law and would work to ensure that these students would be eligible for the new grants.

The Department is working to clarify the time frame that students would be eligible for the grants. Eligible students may receive only one grant for each year of college. For instance, an Academic Competitiveness Grant recipient could receive only one grant for his or her freshman year and one grant for the sophomore year. Department officials said they were wrestling with this stipulation because a full-time student could earn 24 credits and still not be considered a sophomore at some schools.

Attendees also expressed concerns about various situations where a student loses eligibility while receiving the new grants (e.g., switching majors, dropping classes, stopping out, and lowered GPAs). Would the student's grant resume with regained eligibility, or would the remainder be lost because the academic year elapsed? Department officials were not able to answer these specific questions but assured attendees they were working out the details. One official noted that if a student switched majors to become eligible for the SMART Grant the Department would work to ensure the student received aid under the programs because that is the Congressional intent.

Attendees also raised concerns that the major requirements for the SMART Grants were vague and wanted more details about what majors would qualify because the range of programs that could qualify is large. For example, would a math education or science education major be eligible? There was some disagreement among the officials about answers to these questions. ED officials said they were planning to use the Integrated Postsecondary Education Data System (IPEDS) to track majors that make a student eligible for the SMART grant. Each major has a corresponding code in the IPEDS system and the Department plans to develop a list of codes that qualify. Financial aid administrators would be required to provide those codes to the Department. The Department plans to work with individuals in the academic community to determine which majors will ultimately qualify.

Other Concerns

ED officials indicated that the Department was working hard to meet the aggressive implementation schedule and ensure that the funds are distributed in a consistent, fair manner. The legislation stipulates that if more students qualify than funding is available, then maximum awards will be equally lowered by a percentage that allows all students who qualify to receive funds. If not enough

students qualify for the funding available then the extra money will remain in the program for the following year.

ED officials indicated that they were planning to hold their first meetings with major software providers this month to discuss how the Department would coordinate the providers to help update school software to accommodate changes in the law. The Department plans to hold at least one meeting a month up to implementation to address the software needs of schools and the Department.

More generally, some attendees questioned if the SMART grant programs would be able to accomplish the goal of encouraging students to earn a math, science, technology or foreign language major. They noted that many beneficiaries of the grants during the first few years of the program will have likely already chosen their major without the motivation of the program. And, the program expires after five years so there is little time to change students' minds about what field of study to enter.

There were also concerns that the Academic Competitiveness Grant would generally not be available to students from inner-city and rural school districts because these districts do not provide as many rigorous high school curricula as wealthier school districts.

By Haley Chitty
NASFAA Assistant Director for Communications

Summary: Academic Competitiveness Grant and SMART Grant Program

General: The Deficit Reduction Act of 2005, S. 1932, creates a new program with the overall name of the "Academic Competitiveness Grant" Program to be found in a new Section 401A of the Higher Education Act.

Academic Competitiveness Grants: Grants for first- and second-year undergraduates will be known as an Academic Competitiveness Grant.

First-Year Student Eligibility: In order to be eligible a student must be full-time, a U.S. citizen, and Pell eligible. And, must be a student enrolled or accepted for enrollment in a first-year, two- or four-year degree granting undergraduate program and, after January 1, 2006, must have successfully completed a rigorous secondary school program established by a State or local educational agency that is recognized as rigorous by the Secretary. Also, the individual has not previously been enrolled in a program of undergraduate education. The first-year award is $750.

Second-year Student Eligibility: In order to be eligible a student must be full-time, a U.S. citizen, Pell eligible, completed a rigorous secondary school program after January 1, 2005 and have at least a 3.0 GPA (or the equivalent as determined by regulation) at the end of the first academic year. The second-year award is $1,300.

SMART Grants: Grants for third- and fourth-year undergraduates will be known as a National Science and Mathematics Access to Retain Talent Grant or a National SMART Grant.

SMART Grant Eligibility: In order to be eligible a student must be full-time, a U.S. citizen, and Pell eligible. For third- or fourth-year eligibility is pursuing a major in the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by regulation) or in a foreign language that is critical to U.S. national security. The Secretary will consult with the Director of National Intelligence to choose such languages. Finally, the individual has a 3.0 GPA (or the equivalent as determined by regulation) in coursework required for the designated qualifying major. The third- and fourth-year award is $4,000 each year.

General Requirements for Both Programs: The following are requirement applicable to both the Academic Competitiveness Grant and the SMART Grant programs.

ACG/SMART Grants Cannot Exceed Cost of Attendance: These merit awards in combination with a Pell Grant award and all other resources cannot exceed the student's Cost of Attendance (COA).

Insufficient Funding Resulting in Reduction in Award: If, in any fiscal year the amount authorized and appropriated is less than the amount necessary to provide for a full payment to award recipients, then those awards will be ratably reduced. If additional appropriations are made for recipients whose awards were ratably reduced, then their award will be ratably increased as dictated by the amount of the additional appropriation, e.g. partially or fully restored depending on the level of additional appropriations.

Prior Year Credit Not Allowed: No award shall be made to any student for an academic year of undergraduate education if the student received credit before the date of enactment of this bill (the date the president signed the bill which is February 8, 2006).

One Award Per Year: A recipient cannot receive more than one award for each year of eligibility.

Mandatory Funding: Funds are authorized and appropriated (meaning this merit aid program is an entitlement, mandatory spending program) at the following

levels: $790,000,000 for fiscal year 2006; $850,000,000 for fiscal year 2007; $920,000,000 for fiscal year 2008; $960,000,000 for fiscal year 2009; and $1,010,000,000 for fiscal year 2010.

Carry-over Authority: For any fiscal year in which funds exceed the amount necessary to make the required grants in the amounts specified, such excess funding must be available for grant awards in a subsequent fiscal year.

One School Per State Minimum Requirement: The Secretary shall recognize at least one rigorous secondary school in each State for the purpose of determining student eligibility.

Sunset: The program's authority expires at the end of the 2010-11 academic year.

Academic Competitiveness Council: An Academic Competitiveness Council is established with $50,000 in FY 2006 funding to carry out its duties. The Council is chaired by the Secretary of Education and its members consists of Federal government officials whose agencies' responsibilities managing existing Federal program that promote math and science. Designees are permitted so long as those officials have significant decision-making authority.

The Council's duties include the following: identify Federal programs with a math and science focus; identify target populations served by those programs; determine those programs effectiveness; identify areas of overlap or duplication; make recommendations ways to efficiently integrate and coordinate those programs.

One year after the date of enactment of this Reconciliation bill (date the president signs the bill which is February 8, 2006) the Council must report to congressional committees with jurisdiction over the federal math and science programs so identified by the Council with its findings and recommendations including possible administrative or legislative action.

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