

Congressional Update—The Debate on Reform Continues

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Texas Legislative Update

As this article is being written, the 140-day 81st Regular Session of the Texas Legislature has 10 days left before final adjournment.

At this time, the FY 2010–11 appropriations bill includes record increases in general appropriations for the state’s student financial aid programs. For the Fiscal Year (FY) 2010–2011 biennium, \$1.2 billion is appropriated, an increase over the \$896 million appropriated by the 80th Legislature for the current biennium.

Out of this amount:

Not less than \$40 million is dedicated to the Texas Education Opportunity Grant program for students attending the state’s public community colleges, contrasted with \$14 million for the current biennium.

Not less than \$663 million is dedicated to the TEXAS Grant program, contrasted with \$428 million for the current biennium.

Not less than \$15 million is dedicated to the Texas College Work-Study program, contrasted with \$14 million for the current biennium.

Not less than \$38.5 million is dedicated to the B-On-Time program, contrasted with \$77 million for the current biennium.

Not less than \$211.8 million is dedicated to the Tuition Equalization Grant Program for students attending the state’s private nonprofit colleges and universities, the same as the current biennium.

The legislature eliminated \$100 million from the Higher Education Performance Incentive Initiative in order to fund the new scholarships for students who graduate in the top 10% of their high school class and have financial need.

In addition to the appropriations bill, several bills were introduced for consideration by the legislature concerning student financial aid and access. These include amending the Texas top 10% law, controlling the increase in public university tuition since it was “deregulated” in 2003, rationing need-based state student financial aid by adding a merit component, improving transparency in providing education cost and aid information, reducing the cost of textbooks for students, establishing a public awareness campaign to promote postsecondary education opportunities and the availability of student financial aid, and expanding personal financial literacy training for students and teachers.

In Texas, all high school graduates who graduate in the top 10% of their high school class are automatically admitted to any of the state’s public institutions of higher education of the graduate’s choice. As a result, the entering freshman class at the state’s flagship institutions under the top 10% law is now approaching 80%. Institutions have been requesting some degree of relief from the law. At this time, the legislature is considering a bill that would allow institutions impacted by the top 10% law to place a limit of 50% or 60% on entering freshman admitted under the law beginning with academic year 2010.

In 2003, in response to a budget shortfall, the 79th Regular Session of the Texas Legislature deregulated the authority to set part of the tuition resident students pay at Texas’ public universities, allowing the individual campuses to set the rate. As result, institutions increased tuition over the past several years by as much as 50%. In response to this increase, the 80th and current 81st Texas Legislatures have considered a variety of bills that proposed to limit this trend. The current legislation under consideration ranges from an outright recapture of tuition-setting authority by the legislature to capping annual increases at a set percentage to grandfathering in tuition for students at the rate in existence at each institution at the time of enrollment.

Legislation proposing to add merit criteria to the state's primary need-based grant program, the TEXAS Grant program, and give priority to graduates with financial need and who meet two of the proposed four academic criteria was introduced early in February. The four criteria are:

- 1) Graduate with the Distinguished Achievement Program (DAP) or the International Baccalaureate Program (IB);
- 2) Graduate with a 3.0 GPA in high school;
- 3) Achieve a college readiness score on the SAT (1590) or ACT (23);
- 4) Graduate in the top one-third of their high school class.

After serious opposition, the legislation has been amended to mandate a state study during the upcoming interim to assess the impact of enacting this proposal on students.

Legislation that would require institutions to make cost, student financial aid, and academic information available through Internet Web sites is also being considered by the current legislature. Additionally, legislation requiring the Texas Higher Education Coordinating Board, with the Texas Education Agency and other appropriate entities, to initiate a statewide public awareness campaign promoting the importance, benefits, and availability of a pursuing and obtaining a higher education will also probably be approved by the legislature before final adjournment.

For the second consecutive session, legislation is being considered to exempt the payment of sales taxes on textbooks for students attending Texas' public colleges and universities.

Lastly, several bills concerning personal financial literacy for K–12 students, higher education students, and public school teachers are being considered by the current legislature. If enacted, these bills would be implemented by the Texas Higher Education Coordinating Board and the Texas Education Agency.

Congressional Update

The House Education and Labor Committee convened in its initial public hearings on May 20th and 21st to begin deliberating the resolution's reconciliation instruction to the Committee to develop legislation that reforms the federal student loan programs, saves \$1 billion over 5 years, and converts the Pell Grant program into an entitlement program.

Through the FY 2010 budget process:

- Congress has complete flexibility to develop legislation—through the reconciliation process or regular order—to implement the administration's major proposals to reform health care, reform the federal student loan programs, develop a comprehensive national energy policy, and save an estimated \$87 billion.
- Congress can extend some, or all, of the 2001 and 2003 income tax reductions and modifications, rather than allowing these measures to expire as scheduled under current law.
- The budget resolution is not a law and is not binding. It is only a guide for the congressional committees to use to develop tax and spending legislation through the appropriations process. But the assumptions in the budget resolution can have an impact on legislation.
- The congressional budget plan accommodates consideration of the administration's major proposals with deficit-neutral "reserve funds" (20 for the House and 14 for the Senate) as well as—in the case of health reform and changes in the student loan programs—the possibility of using the budget reconciliation process.
- These reserve funds allow the House and Senate Budget Committees to adjust the budget resolution's overall spending and revenue estimates and the spending allocations for particular congressional committees to ensure that legislation accomplishing a reserve fund's goal—such as to "make higher education more accessible and affordable while maintaining a competitive private sector role in the student loan program"—will not be subject to a Senate filibuster if it exceeds those limits or allocations provided for in the resolution.

The budget resolution does not specify what policies either chamber should adopt to achieve the desired outcomes—for instance, it neither endorses nor rejects the administration’s proposed changes to the student loan programs, the savings from which are targeted to infuse appropriations into the Pell Grant Program. Instead, it leaves all of the details to the committees of jurisdiction (in the case of the student loan reform, Education and Labor in the House and Health, Education, Labor, and Pensions in the Senate) so long as the legislation they produce is deficit neutral.

In deliberating how to go about achieving these outcomes, reconciliation instructions in the budget resolution direct three committees in the House (Energy and Commerce, Ways and Means, and Education and Labor) and two committees in the Senate (Finance and Health, Education, Labor, and Pensions) to report reconciliation legislation no later than October 15 of this year. The full House and Senate would then consider this legislation under special procedures, the most important of which is a limit on the time allowed for debate in the Senate. Under the Senate’s regular rules, 60 votes are needed to prevent a minority of senators from blocking legislation through a filibuster, but reconciliation legislation cannot be filibustered.

Democratic leaders in Congress have stated that committees should try to move health reform and student loan reform legislation through the normal legislative process over the next few months without using the reconciliation process, but that it is important to have reconciliation as a backup if a minority of senators tries to block consideration of a health care reform bill. A decision can be made in the fall about whether to use reconciliation for health reform or just for education legislation and, possibly, other matters within the jurisdiction of the reconciled committees. The Committee hearings on May 20th and 21st kicked off this process in the House.

The budget plan assumes that funding for discretionary programs in FY 2010 (other than appropriations for unanticipated emergencies or for the wars in Iraq and Afghanistan) will total \$1.086 trillion. Funding for defense activities other than Iraq and Afghanistan is assumed to total \$556.1 billion, exactly the amount the President proposed.

The total amount assumed for all other discretionary programs in 2010 (excluding defense) is \$529.8 billion. That is \$10 billion below the amount the President requested but \$29.8 billion, or 6.0%, above the level provided for 2009 (excluding the recovery legislation), adjusted for inflation.

It is impossible to know how Congress will distribute these funds among various nondefense functions and activities. A budget resolution simply sets the total amount of discretionary funding available for the year—it is up to the appropriations committees to determine how to allocate the funds among federal programs and activities.

The administration's FY 2010 budget plan proposes to cut or eliminate 121 federal programs, resulting in an estimated \$17 billion in the \$3.5 trillion budget request. Of this, \$11.5 billion would come from discretionary spending, with the remainder from mandatory programs. About \$4 billion would come from repealing subsidies paid to FFELP lenders.

Higher Education

The administration's budget request proposes:

- An increase of \$9.3 billion in the Pell Grant program to \$28.7 billion
- An increase in funding for the Perkins Loan program from \$1.1 billion in available loan assistance in 2009 to \$5.8 billion in 2010
- An increase of \$175 million to the SMART grant program to \$955 billion
- Level funding for the SEOG program at \$757.5 million
- Level funding for the Federal Work-Study program at \$980.5 million
- Level funding for the TRIO program at \$905.1 million
- Level funding for the GEAR-UP program at \$313.2 billion
- Zero funding for the LEAP program
- Funding the proposed College Access and Completion Fund with an initial appropriation of \$500 million

The administration's FY 2010 budget proposal effectively abolishes the Federal Family Education Loan Program (FFELP) and transfers the savings to finance the Pell Grant program, to provide much of the record increase cited above and to allow an authorized and funded annual maximum grant of \$5,500. The proposal also provides for the Pell Grant moving from a program funded with discretionary appropriations to an entitlement program funded through mandatory funds, indexing annual increases to no less than the CPI plus 1%.