Student Loan Reform Still in Limbo

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Fiscal Year 2010 Federal Budget Update

The student loan reform legislation, which was approved by the House of Representatives in mid-September, is now with the Senate Health, Education, Labor and Pensions (HELP) Committee. As is often the case, because this committee was one of the committees responsible for developing the health care reform bill, most of the staff and members’ time has been spent working on that bill, thus stalling student loan reform. However, the committee staff is working diligently with its House committee counterparts to draft legislation that will differ as little as possible from the bill passed by House—H.R. 3221, The Student Aid and Fiscal Responsibility Act.

It is unusual for so many major and complicated issues to be confronted by an administration and Congress at the same time. War, climate change, health care, regulatory reform of the financial services sector, unprecedented growth in the national debt, the economy, and jobs are all areas of focus. The consideration of student loan reform, while a major issue for the student financial aid community, does not rise to the level of any of the issues currently crowding the congressional agenda. In fact, all of the major national higher education associations—e.g., the American Association of Community Colleges, the American Council on Education, the State Higher Education Executive Officers, the American Association of State Colleges and Universities, the Association of American Universities, and others—endorsed H.R. 3221 long ago with no exceptions.

The delay in Senate action on this bill is the result of the initial decision by the Senate leadership to keep the option of using the budget reconciliation process in play for the health care reform legislation and the student loan reform legislation. The leadership decided to proceed with the health care debate through Regular Order, which requires 60 votes for consideration in the Senate. The prolonged debate delayed consideration of the student loan reform bill.
It is anticipated now that H.R. 3221, as amended by the Senate, will proceed through the expedited budget reconciliation process before the fiscal year (FY) 2011 budget process begins, and that a compromise bill will be sent to the president early in 2010.

Turning to appropriations, the FY 2010 Department of Labor, Health and Human Services, and Education appropriations spending bill, H.R. 3293, takes a step backward from the last two fiscal years, as this bill would provide level funding for most Title IV discretionary programs. The bill would set the appropriated amount of the Pell Grant to a maximum award of $4,860. This is a scheduled, mandatory increase from the College Cost Reduction and Access Act (CCRAA) and will add an additional $690 to the appropriated amount, bringing the total Federal Pell Grant to $5,550 for the 2010–11 award year.

**Student Loan Reform**

The House passed H.R. 3221 by a mostly party-line vote of 253–171. H.R. 3221 will eliminate the Federal Family Education Loan Program (FFELP) and convert such loans to the Federal Direct Loan Program (FDLP) managed by the Department of Education effective July 1, 2010 (when FFELP loan originations would cease). According to initial estimates from the Congressional Budget Office (CBO), making this shift would generate $87 billion in savings over the next 10 years. However, since we are already in FY 2010 without an approved budget, and since many additional schools have transitioned to the FDLP since the original CBO scoring in March 2009, some of the estimated $87 billion savings may, in fact, have already been accounted for and spent in the current budget. It is expected that when H.R. 3221 as amended by the Senate is scored, or when H.R. 3221 as passed by the House is rescoring as a part of the FY 2011 budget process, the savings will be smaller.

Despite the expected smaller savings, we anticipate that students will benefit from the bill because it will invest the estimated savings directly in students and families in a variety of ways. First, the savings will allow the federal government to invest $40 billion to increase the maximum annual Pell Grant to $5,550 in 2010 and to $6,900 by 2019. Starting in 2010, the grant will be linked to match rising costs-of-living by indexing it to the Consumer Price Index plus 1%, essentially guaranteeing at least a minimum automatic increase in
appropriations to the program. The bill will also provide an additional $2.55 billion to Historically Black Colleges and Universities and Minority-Serving Institutions. This new funding will support an array of programs, including the enhancement of Science, Technology, Engineering, and Mathematics (STEM) programs; teacher preparation; improving educational outcomes of students through the construction and renovation of classroom, library, laboratory, and other instructional facilities; faculty development; academic tutoring; counseling programs; and other student support services.

The savings from the elimination of the FFELP will also be used to allocate $12 billion to the states to encourage partnerships between community colleges, states, businesses, job training, and adult education programs. The bill creates a new competitive grant program for community colleges to improve instruction, collaborate with local employers, and improve their student support services. The bill would also enable community colleges to implement innovative reforms that will increase the number of students receiving a certificate or industry-recognized credential to help fulfill local workforce needs as well as increase college degree completion. The bill invests $3 billion to bolster college access and completion support programs for students. Programs focus on activities and services that increase students’ persistence in and completion of their postsecondary educations, particularly with regard to underrepresented students. These funds will also be used to develop an interoperable statewide longitudinal data system to track student success in postsecondary schools and the workforce.

Other benefits to students will result from the strengthening of the Perkins Loan program, a campus-based program that provides low-cost federal loans to students. Student loan interest rates will be kept low on need-based federal student loans by making the interest rates on these loans variable beginning in 2012. These interest rates are currently set to jump from 3.4 percent to 6.8 percent in 2012. Finally, the process of completing the Free Application for Federal Student Aid (FAFSA) will be simplified to enable greater access to postsecondary education. The challenge with a streamlined FAFSA is the potential for unintended consequences surrounding excluded data that institutions and states may still need.
While the higher education community largely supports the bill, associations of student financial aid administrators have recently raised concerns. The Perkins Loan program provisions could obligate institutions either to pay interest on behalf of their student borrowers while they are in school or force them to pay new participation fees. The bill essentially converts this campus-based program into a second direct loan program, limiting the flexibility schools have under the current model.

Some question the structure of the College Access and Completion Innovation Fund, intended to help achieve the president’s goal of increasing the number of college graduates. Twenty-five percent of the available funding (a total of $3 billion over five years) would be available for competition among higher education institutions; states would retain the majority of funding. To be eligible for grants, states would have to develop rigorous statewide longitudinal data systems. Concern has been expressed that direct access to such data could give states new and major regulatory control over public colleges and universities. The original proposal included private institutions, but the House exempted them in its final bill. Remaining funds would be available to other nonprofits within the states to provide student and school support services to recruit, retain, and graduate students.

There is concern that the actual savings from the elimination of FFELP might be considerably less than originally estimated. With the delay in passing the legislation, is the estimated savings still $87 billion over 10 years (beginning in FY 2010)? When the original estimate was made, the FDLP national loan volume was 30%. Today, the volume of loans originated for the current academic year is already predicted to be around 42%.

Of greatest concern to financial aid administrators is the timing of the scheduled transition from the FFELP to the FDLP by July 1, 2010, along with the scheduled “sunset” on the same date of the Ensuring Continued Access to Student Loans Act (ECASLA). ECASLA was enacted by Congress in 2007 when lenders were unable to obtain capital through the financial markets. This act permitted the Department of Education to serve as a temporary student loan secondary market for private lenders so that they could access student loan capital from the Treasury with which to originate new FFELP loans. With the
transition and the scheduled sunset occurring on the same day, there is concern that students could potentially lack access to much-needed student loans. This threatens both student and institutional success.

Many student financial aid offices are waiting until final passage of the student loan reform legislation before converting to the FDLP, or even becoming FDLP-ready. As final passage of the legislation continues to be delayed, there is a growing concern that, unless the effective date of the bill is pushed back, financial aid offices will not have sufficient time to enroll in the FDLP. Financial aid offices are understaffed and unprepared to transition. Additionally, staff will also need training to be ready to process FDLP loans on July 1, 2010. Lack of access to FFELP loans from private lenders once ECASLA expires is arousing consternation.

As of today, it appears that the intent of the congressional leadership and majority is that H.R. 3221, or legislation similar that achieves the basic objectives outlined above with the same effective date of July 1, 2010, will be reported out of the HELP Committee. The bill may be amended by the Senate or in conference committee to address the outlined concerns. However, to date, there appears to be no movement in that direction.

Major higher education associations have endorsed this legislation in its current form. The concerns cited here are concerns expressed by the student financial aid community, through state and regional associations of student financial aid administrators. They are primarily issues of concern regarding the short time allocated for schools to transition to the FDLP (July 1, 2010) and the anticipated lack of support services traditionally provided by locally based nonprofit guarantors, e.g., delinquency and default prevention, debt management, information clearinghouse services, regulatory guidance, training, and more.

With the annual cohort default rate now being calculated on a 3-year basis, which will increase most institutional rates, the guarantor-provided support services targeted at managing the cohort rate are especially important to student financial aid offices and schools.
It remains to be seen exactly how all of this will play out. However, what is certain is that the federal student financial aid programs and programs targeted at providing greater access for students are front and center on this administration’s and Congress’ agenda. The major questions, unfortunately, concern the largest program—the federal student loan programs—and how well prepared the institutions will be for the July 1, 2010 transition.

Will students needing federal student loans be inconvenienced? Will or does the Department of Education have a “Plan B” for those institutions that might have waited too long to prepare for the transition? Have those institutions that have endorsed H.R. 3221 taken actions to ensure that their student financial aid offices are FDLP-ready? Will institutions and their students receive the same level of postorigination support services in the FDLP currently provided in the FFELP? Are states taking action to implement programs to assist schools for the transition? If students are to truly benefit from the very worthwhile policies being advocated in Congress, these questions must be addressed in as timely a manner as possible.