NCHER

DAILY BRIEFING

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House and Senate Appropriations Committees Release Text of Consolidated Appropriations Act, Includes Agreement on Education Funding and LIBOR Transition

This morning, the House and Senate Appropriations Committees released the legislative text of the Fiscal Year (FY) 2022 Consolidated Appropriations Act, which includes bipartisan agreements reached between Democrats and Republicans on the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act and the transition away from the London Interbank Offered Rate (LIBOR). Regarding budget/appropriations, the final agreement would provide $213.6 billion in discretionary funding for the U.S. Department of Labor, U.S. Department of Health and Human Services, and U.S. Department of Education, an increase of 15.3 billion or 7.7 percent over last year's level. The total is, however, $40 billion less than the President's budget request. A summary of the legislation released by the committees can be found **here**.

Key higher education funding provisions of interest to the NCHER membership include the following:

- The bill provides $76.4 billion in discretionary funding for the Department of Education, which is $2.9 billion above last year's level, but $26.4 billion below the President's budget request. The legislation provides $24.6 billion for federal student aid programs, an increase of $35 million above the FY 2021 enacted level.
- The legislation sets the maximum Pell Grant award at $6,895, an increase of $400 over the 2021 enacted level, funded by a combination of discretionary and mandatory funds.
- The bill provides $895 million for the Federal Supplemental Educational Opportunity Grant program, an increase of $15 million above the 2021 enacted level, and $1.21 billion for Federal Work Study, an increase of $20 million above the 2021 enacted level.
- The legislation provides $1.14 billion for TRIO Programs and $378 million for GEAR UP, which help first-generation college students prepare for, enter, and complete college. TRIO programs are increased by $40 million and GEAR UP programs will see an increase of $10 million.
- The bill extends the authority for account maintenance fees paid to guaranty agencies for an additional year.
- The legislation provides $2.03 billion for federal student aid administrative expenses. It includes legislative language requiring the Secretary of Education to allocate new borrower accounts to student loan servicers on the basis of their past performance, utilizing established common metrics, and on the basis of the capacity of each servicer to process new and existing accounts and compliance with federal and state law. The language allows borrowers who are consolidating federal student loans to select from any student loan servicer to service their new consolidated student loan, and prohibits the funding for any contract solicitation for a new federal student loan servicing environment, including the Next Generation Processing and Servicing Environment, unless it provides for the participation of multiple student loan servicers that contract directly with the Department. It also

includes language stating that the Department should re-allocate accounts from servicers for recurring non-compliance with Federal Student Aid guidelines, contractual requirements, and applicable laws, including for failure to inform borrowers of available repayment options. It also requires servicers to be evaluated on their ability to meet contractual requirements, future performance on the contracts, and history of compliance with consumer protection laws, and that the new servicing environment should incentivize more support to borrowers at risk of delinquency or default. Finally, the language requires the Department to ensure that its contractors have the capacity to meet and are held accountable for performance on service levels, requires contractors to have relevant experience and demonstrated effectiveness, requires the Secretary to provide quarterly briefings to Congress on general progress related to solicitations for federal student loan servicing contracts, and requires the Department to publish aggregate data on student loan and servicer performance and a detailed strategic and spend plan for NextGen.

In conjunction with the legislative text, the committees also released the **explanatory statement** for the bill, which includes the following report language:

- Student loan Servicing.- The agreement includes $2,033,943,000 for Student Aid Administration. Over the last several years, Congress has provided significant funding to support the implementation of the Next Gen initiative and the move towards a long-term servicing solution. While some progress has been made to improve loan servicing for borrowers, there is still no long-term servicing solution in place. Therefore, the agreement continues to include bill language requiring the Office of Federal Student Aid to submit a detailed spend plan of anticipated uses of funds and to provide quarterly updates on its progress towards fulfilling the spend plan. The agreement also continues a provision to provide, at a minimum, quarterly briefings to the authorizing and appropriations committees on progress related to solicitations for Federal student loan servicing contracts.
- Postsecondary Student Success Grants.- The agreement includes $5,000,000 for a new Postsecondary Student Success Grants program, to support evidence-based activities to improve postsecondary retention and completion rates.

Regarding LIBOR transition, the final agreement includes the Adjustable Interest Rate (LIBOR) Act based on legislation recently released by the Senate Banking, Housing, and Urban Affairs Committee and passed by the U.S. House of Representatives last year. The final agreement is designed to establish a clear and uniform process, on a nationwide basis, for replacing LIBOR in existing contracts where the terms do not provide for the use of a clearly defined or practicable replacement benchmark rate, without affecting the ability of parties to use any appropriate benchmark rate in new contracts. It is also designed to preclude litigation related to existing contracts where the terms do not provide for the use of a clearly defined or practicable replacement benchmark rate by providing a safe harbor for selection and use the replacement benchmark rate; allow existing contracts that reference LIBOR but provide for the use of a clearly defined and practicable replacement rate, to operate according to their terms; and address LIBOR references in federal law. The agreement identifies the replacement benchmark rate as the Secured Overnight Financing Rate (SOFR). Of importance to the NCHER membership, the agreement provides for the replacement of one-month LIBOR with a 30-day average SOFR in calculating special allowance payments for loans made under the Federal Family Education Loan Program (FFELP). This language was prepared in consultation with the FFELP industry.

The Consolidated Appropriations Act is expected to be considered by the U.S. House of Representatives later today, and the Senate later in the week. As of press time, several Democratic members are threatening to vote against the bill because of how the COVID-19 relief package impacts their states; the House Democratic Leadership agreed to strip the language from the final agreement. Along with the Consolidated Appropriations Act, Congress is slated to pass a four-day Continuing Resolution (CR) to keep the federal government in operation until Tuesday if it takes either chamber additional time to clear the mammoth funding package. For more coverage, see these articles from ***The Hill*** and ***Roll Call***.

Department of Education Instructs Servicers Not to Send Payment Notices, Action Suggests Pause May Be Extended

Several news organizations are reporting that the U.S. Department of Education has instructed its federal student loan servicers not to send notices to student and parent borrowers about the resumption of federal student loan payments that would be due in early May. The guidance reportedly did not provide any specifics about when the required notices should go out or about a possible extension of the pause on federal student loan payments, interests, and collections that has been in place since March 2020. The current payment pause is set to expire in under two months on May 1, 2022, though Biden Administration officials have been dropping hints that the White House is seriously considering an extension. On a **recent podcast**, White House Chief of Staff Ron Klain said, “The president is going to look at what we should do on student debt before the pause expires, or he'll extend the pause." For additional coverage, see this article from ***CNBC***.

Department of Education Announces 100,000 Borrowers Have Qualified for Forgiveness Under PSLF Waiver

Today, the U.S. Department of Education announced that there are 100,000 borrowers who are eligible to have their loans forgiven under the time-limited waiver for the Public Service Loan Forgiveness (PSLF) Program. The total amount of federal student loans to be forgiven is expected to reach $6.2 billion, up from an estimated $5 billion in debt relief for 70,000 borrowers that the Department announced in January 2022. The loan forgiveness comes after the Department introduced a limited waiver that would allow borrowers to receive credit for past periods of repayment on loans that would otherwise not qualify for the PSLF program. In a statement, Education Secretary Miguel Cardona said, "Our nation's public service workers must be able to rely on the promise of Public Service Loan Forgiveness. The Biden-Harris administration is delivering on that promise by helping more and more eligible borrowers get their loan balances forgiven. The PSLF announcement made today means more of our dedicated teachers, nurses, first responders, servicemembers, and many other public service workers will get meaningful relief." For further coverage, see these articles from ***Inside Higher Ed***, ***CNN***, and ***CBS News***.

House Education Committee Democrats Introduce Clean Slate Through Consolidation Act

Yesterday, House Education and Labor Committee Members Haley Stevens (D-MI) and Alma Adams (D-NC) and Reps. Deborah Ross (D-NC), and Nikema Williams (D-GA) introduced **H.R. 7000, the Clean Slate Through Consolidation Act**, which would remove the default record from the credit history of federal student loan borrowers who have consolidated their defaulted loans. This legislation has been endorsed by the Center for Responsible Lending, National Association of Student Financial Aid Administrators, The Institute for College Access and Success, and American Federation of Teachers. In a **statement** on the bill, Rep. Stevens said, "I am proud to be a part of this comprehensive effort to deliver life-changing relief for our federal student loan borrowers. Americans who pursue an education and make a good faith effort to pay off their loans deserve a fair chance to reestablish their credit and participate in our economy. This legislation empowers borrowers to get back on the right track and escape the lasting shadow of their student loan debt once and for all." The bill has been referred to the House Education and

Labor Committee for additional consideration.

U.S. Department of Education News

For today's *Federal Register*, click here.

General News

Forbes publishes a column examining the three things that would happen if President Joe Biden extends the federal student loan payment pause that expires on May 1st.

The Hill reviews how the President has tackled federal student loan debt since taking office last year.

Credible reports on how beneficiaries can use up to $10,000 of their 529 college savings account funds to repay qualified student loan debt.

The Hill includes an op-ed by Hildreth Institute Founder Robert Hildreth who argues that comprehensive student loan debt forgiveness has gone nowhere.

University Business reports on how college students have benefited from billions in funding that Congress provided through the American Rescue Plan. Even without passage of the Biden Administration's Build Back Better Act, institutions of higher education are spending funds and getting them in the hands of students.

University Business reports that New Mexico's governor just signed a bill to make college tuition-free. Part-time and adult students can take part in the program, which hopes to expand to serve 35,000 students.

National Council of Higher Education Resources
1050 Connecticut Ave NW #65793
Washington, DC 20035

Phone: **(202) 822-2106**
Fax: (202) 822-2142