Daily Briefing

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Weekly Rundown

The NCHER Weekly Rundown, which includes the latest information on important events in Washington, DC, is available today and can be downloaded from the NCHER website.

Senate Appropriations Committee Releases FY 2022 Labor, HHS, Education Appropriations Act, Includes AMF Extension

Today, the Senate Appropriations Committee released the draft legislative text of its Fiscal Year 2022 Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. In a statement, Chairman Patrick Leahy (D-VT) said that he released the remaining bills the committee has not considered in an effort to move the budget and appropriations process forward. But Ranking Member Richard Shelby (R-AL) said that the bills contain issues that are strongly opposed by Republicans and will not become law. Key education provisions included in the legislation that may be of interest to the NCHER membership include the following:

• The bill provides $98.4 billion in discretionary funding for the U.S. Department of Education, which is $24.9 billion above last year's level and $4.4 billion less than the budget request and House-passed version of the legislation.

• 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 funding level is the same as provided in the House-passed bill and the President's budget request.

• The legislation provides $1.3 billion for TRIO Programs, an increase of $186 million over last year. The programs help first-generation college students prepare for, enter, and complete college.

• The bill extends the authority for account maintenance fees paid to guaranty agencies for an additional year (Section 306).

• The legislation provides $2.05 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. 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 requires the Secretary of Education to ensure that all current and future contractors are held accountable for performance on service levels, non-compliance with Department guidelines, non-compliance with contractual requirements, and non-compliance with federal and state consumer protection laws. It also prohibits the funding for any contract solicitation for a new federal student loan servicing environment unless it provides for the participation of multiple student loan servicers that contract directly with the Department. The language also ensures that a future servicing environment provides for a single, centralized website and phone line with Department branding.

• The committee report includes the following language:

Accountability for Misconduct and Abrupt School Closures.—The Committee is concerned by the significant number of institutions of higher education that in recent years have committed fraud, abuse, substantial misrepresentation, or other misconduct, or have abruptly closed. The Committee directs the Department to develop procedures for holding executives, owners, and board members liable for such misconduct and closures, in order to deter future predatory or illegal behavior and to alleviate negative consequences for students and taxpayers.

FAFSA Data Sharing with Student Aid Organizations.—The Committee notes the Consolidated Appropriations Act, 2018, modified in fiscal year 2019, provides institutions of higher education with clear authority to provide information from a student's FAFSA to certain scholarship granting organizations, with the consent of the applicant, to help students apply for and receive student aid and State and Federal means-tested benefits. However, these provisions have not yet been widely utilized due to a lack of guidance from the Department, and the COVID–19 pandemic has increased the need for students to understand resources available to assist them with basic needs. The Committee directs the Department to publish guidance on this provision within 90 days of enactment of this act.

Office of Enforcement.—The Committee has been concerned about the low level of staffing in, and the utilization of, the Student Aid Enforcement Unit, which is critical to fighting fraud and abuse. Accordingly, the Committee strongly supports the Department's recent announcement to establish an Office of Enforcement within FSA to identify and address major problems across institutions of higher education that pose widespread risk to students and taxpayers. The Committee expects FSA to robustly staff this office, and requests a briefing within 60 days of enactment on the priorities of the office and the number of staff it will include.

Pell Grant Restoration and Prison Education Programs.—The Committee recognizes the significance of restoring Pell Grant access for incarcerated individuals and the positive impact that will have on reestablishing effective prison education programs across the country, and ultimately reducing recidivism, and saving taxpayer dollars otherwise spent on the cost of incarceration. The Committee encourages the Department to use the expertise and best practices from the Second Chance Pilot in its efforts to develop regulations for full Pell Grant reinstatement in the current negotiated rulemaking process. The Committee further directs the Department to work with Second Chance Pell Pilot sites as they transition to the new requirements to ensure that incarcerated students do not experience a gap in their educational programming. The Committee further directs the Department to work with the Department of Justice to develop and provide technical assistance and guidance to the Bureau of Prisons, State departments of corrections, and other entities that are responsible for overseeing correctional facilities that operate a prison education program. This guidance should address improving the accessibility of educational materials and equipment for incarcerated individuals with disabilities. In addition, the Committee encourages the Department to establish a clearinghouse for research and best practices on developing, implementing, and sustaining effective prison education programs, which should include the development of curricula and instructional frameworks, easing credit transfers both to another correctional facility or an institution of higher education, and the continuation of an individual's education post-release.

Public Service Loan Forgiveness and Department of Defense.— The Committee is concerned about the low rate of approval of Department of Defense [DOD] employees for PSLF. An April 2021 GAO Report found that 94 percent of the PSLF applicants in military service or DOD civilian jobs were denied relief. The GAO recommended that the Department of Education could take additional steps to improve information sharing about PSLF with DOD about military service members and DOD civilian personnel seeking to participate as well with potential beneficiaries. Accordingly, the Committee strongly supports the Department's recent announcement to enter into data-matching agreements with other federal agencies, including DOD, to automatically give credit towards loan forgiveness, and to identify borrowers who may also be eligible.
Return of Title IV Funds.—The Committee continues to encourage the Department to pursue efforts to simplify and streamline the Return of Title IV Funds process for institutions of higher education and students.

State-Based and Non-Profit Servicing Organizations.—The Committee continues to note that many State-based and non-profit servicing organizations have demonstrated and specialized experience in helping struggling borrowers, and continues to encourage the Department to ensure such organizations have a role in any new Federal student loan servicing environment. Especially in light of the COVID–19 pandemic and the eventual return of Federal borrowers to regular payments, it is more important than ever that student borrowers are supported by mission-based organizations, like these State-based and non-profit organizations, that have long[1]standing experience in providing proactive borrower advocacy serv[1]ices. The Committee strongly encourages the Department to explore incentives for federal student loan servicers to subcontract with such organizations.

Student Loan Servicing.—The Committee recommendation continues many of the requirements from the Further Consolidated Appropriations Act, 2021 (Public Law 116–260) but with important modifications. The Committee recommendation continues to require the Department to retain multiple contractors in the current and future servicing environment, evaluate such contractors on the basis of performance on service levels, and hold such contractors accountable for noncompliance. The Committee recommendation also contains new requirements to ensure that borrowers have a centralized website, phone line, and other customer assistance portals with Department of Education branding for managing their accounts and repaying their loans in the future servicing environment, but also requires that borrowers and state and federal law enforcement can still identify any contractors involved in customer service interactions upon request or complaint. The Committee further notes and appreciates the challenges facing federal student loan servicing as the CARES Act forbearance period comes to an end at the same time as several legacy servicers are choosing not to renew their contracts. The Committee looks forward to working with the Department to support successful reentry to repayment and ensure that borrowers receive the support and high-quality customer service they deserve. At the same time, the Committee is concerned with the potential disruption for borrowers, including with the Department's plans to remove certain borrowers from auto-debit status upon the expiration of the CARES Act forbearance period if they do not respond to communications, which could lead to an increase in delinquency and default, and loss of loan benefits, for such borrowers. Therefore, the Committee recommendation includes new language preventing borrowers enrolled in auto-debit payment methods from being removed from such status unless the borrower specifically requests to be removed. Further, the Committee is concerned with the lack of detail as the Department develops its plan for a future servicing environment and continues the requirement that FSA provide quarterly briefings on such plans.

For a copy of a summary released by the Senate Appropriations Committee, click here.

Politico: Department of Education Preparing for Federal Repayment Restart by Extending Forbearance, Examining Fresh Start Proposal

Politico is reporting that the U.S. Department of Education has been preparing for the restart of federal student loan payments by granting additional flexibilities to struggling borrowers in an effort to prevent wide-spread delinquencies and defaults. According to the news organization, it secured several documents on the restart put out by the Office of Federal Student Aid (FSA) that directed federal student loan borrowers not to penalize student and parent borrowers who miss a payment by automatically placing those borrowers into forbearance and be considered current on their loans for 90 days after the restart. The Department is also planning direct outreach to certain at-risk borrowers such as those who were delinquent before the COVID-19 pandemic, never graduated from college, or only recently began repaying their loans. The agency has increased the call center hours of its federal loan servicers, anticipating a deluge of borrower requests in the coming months. FSA is also looking at making it easier for millions of borrowers to remain enrolled in income-based repayment programs through self-certification of income and family size over the phone with their loan servicer. Lastly, the Department is actively considering a new proposal dubbed "Operation Fresh Start," that would remove the default record for 7 million Direct Loan borrowers who were struggling even before the pandemic. A group of Senate Democrats, led by Sen. Elizabeth Warren (D-MA) has called on the Biden Administration to remove defaults from all federally held student loans.

Department of Education Announces New Contract Terms for Federal Student Loan Servicers

Last week, the U.S. Department of Education **announced** it will implement new performance and transparency standards for its federal student loan servicers as part of their contract extensions. According to the announcement, the new contract terms will allow the Office of Federal Student Aid (FSA) to measure the servicers on goals related to customer service call center timeliness and accuracy, processing speed and efficiency, and overall levels of customer satisfaction. The federal servicers will also be required to comply with federal, state, and local laws and respond to those authorities. FSA will also publicize servicer performance data like call center metrics. The announcement says that the contract extensions are only one element of the Biden Administration's plans to improve federal student loan servicing. "Throughout the next year, FSA will take additional steps to implement a broader vision focused on ensuring borrowers have easy access to the clear, accurate, and timely information they need to manage their federal student loans," the release says. "In addition to building on enhancements to FSA's digital platform – including StudentAid.gov and the myStudentAid mobile app – the Department will work on a permanent contracting approach to cement greater stability, servicer transparency, accountability, and performance beyond the two-year period authorized by Congress. The Department also will work to standardize borrower data, simplify the process to transfer borrowers from one servicer to another, and improve security and privacy across our systems. Most importantly, we will work to provide borrowers with a superior customer experience and a suite of tools to ensure they have the resources necessary to manage their student loans successfully."

For more coverage, see this article from ***Inside Higher Ed***.

ARRC Recommends Acting Now to Slow Use of USD LIBOR by Year-End

Last Thursday, the Alternative Reference Rates Committee (ARRC) **announced** that it is recommending all market participants act now to slow their use of the London Inter-Bank Offered Rate or LIBOR. The ARRC announcement referenced widely endorsed **supervisory guidance** that encourages market participants to cease entering into new contracts that use USD LIBOR as a reference rate as soon as practicable and in any event by December 31, 2021. The ARRC stated that USD LIBOR's liquidity and usefulness will likely diminish as new use comes to an end. The ARRC continues to recommend the adoption of its selected alternative, the Secured Overnight Financing Rate or SOFR.

CFPB Announces New Senior Positions, Martinez Named Deputy Director

Last week, the Consumer Financial Protection Bureau (CFPB) **announced** several new appointees in key senior positions. According to the announcement, Zixta Martinez will serve as Deputy Director where she will oversee the Operations Division at the Bureau. Ms. Martinez joined the Bureau in 2011 to help lead the implementation team and has since served as Senior Advisor for Supervision, Enforcement, and Fair Lending, Associate Director for External Affairs, and Assistant Director for the Office of Community Affairs. Previously, she was Senior Director of Industry and State Relations at Freddie Mac, Director at the National Fair Housing Alliance, Legislative Staff Attorney at the Mexican American Legal Defense and Education Fund, Inc., and Housing Policy Analyst for the National Council of La Raza. Karen Andre will serve as Associate Director for Consumer

Education and External Affairs. Prior to joining the CFPB, Ms. Andre served in a number of government, campaign, and private sector roles. Most recently, she served as Special Assistant to the President for Economic Agency Personnel within the Executive Office of the President. She worked on President Joe Biden's 2020 campaign team, including as a Senior Advisor for National Faith Outreach. Following President Biden's election, she joined the presidential transition team as the COVID Engagement Team Lead. She also previously served as White House liaison for the U.S. Department of Housing and Urban Development. Jan Singelmann is returning to the CFPB to serve as Chief of Staff. Mr. Singelmann previously served as Senior Litigation Counsel in the CFPB's Office of Enforcement and most recently as Counsel for Senate Banking, Housing, and Urban Affairs Committee Chairman Senator Sherrod Brown (D-OH), where his work covered consumer finance and data privacy issues.

Department of Education Updates Neg Reg Resource with Registration for Prison Education Programs Subcommittee Meetings

Last week, the U.S. Department of Education updated the **resource page** for its Affordability and Student Loans Committee, which has been tasked with revising several federal regulations through the negotiated rulemaking process, with registration links for the Prison Education Programs Subcommittee meetings currently scheduled for October 18-20, 2021. The meetings will be available for public viewing, but the general public must **register** ahead of time in order to attend.

U.S. Department of Education News

For today's *Federal Register*, click **here**.
The following announcements were posted to the Information for Financial Aid Professionals website:

- **(GENERAL-21-65) Active Confirmation of TG Numbers (SAIG Mailboxes) and Electronic Services User Accounts Required by Dec. 10, 2021 to Maintain Access to Federal Student Aid Systems**

(APP-21-18) Impact of American Rescue Plan Change to Tax Treatment of Unemployment Benefits on Student Aid Eligibility for Cycle 2022–23 (Updated Oct. 15, 2021)

General News

Inside Higher Ed reports that, on Friday, President Joe Biden said that he will probably not get the funds from Congress to make community college tuition-free, as proposed under the American Families Plan.

MSN, *Newsweek*, and *The Hill* report that progressive Democrats continue to escalate the pressure on President Joe Biden to cancel federal student loan debt.

Forbes publishes an article reporting on the five ways that Congress can enact wide-scale student loan cancellation without President Joe Biden.

Inside Higher Ed reports that graduate student enrollments grew in the fall of 2020 despite big drops in incoming international students, according to the latest annual survey of graduate enrollment and degrees from the Council of Graduate Schools. The report says that gains among part-time and underrepresented minority students helped fuel the increase.

University Business reports that endowment returns at Ivy League colleges and universities and numerous other elite colleges have soared to new highs this year.

The Chronicle of Higher Education reports that more than a month after the Biden Administration announced it would require federal contractors to be vaccinated against COVID-19, colleges and universities across the country are beginning to impose campus-wide employee vaccine mandates in response. But with hundreds of millions of dollars at stake and a December deadline looming, many colleges have yet to act.

University Business reports that a handful of Historically Black Colleges and Universities will be selected in mid-November to receive a combined $1.5 million as part of a co-design research project from Complete College America and the Bill & Melinda Gates Foundation to help create a more equitable online learning framework in higher education.

RISMedia reports on the impact of student loan debt and home buying.

Business Insider reviews what jobs qualify for Public Service Loan Forgiveness.

An online version of this Daily Briefing is available to view and print from the **Daily Briefing Section** of the **NCHER e-Library**.

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