NCHER BRIEFING

Thursday, November 16, 2023

In Today's Edition

NCHER Creates New Working Group on Artificial Intelligence

NCHER has created a new Working Group on Artificial Intelligence (AI), which aims to foster learning and collaboration among our members on this emerging technology. AI has the potential to transform the higher education finance industry by enhancing employee productivity, improving the borrower experience, and creating innovative solutions for various challenges. The Working Group on AI will consist of members who

are already using AI in their workplace or in their financial services programs and products, as well as members who are interested in exploring the possibilities of AI. The Working Group will provide a platform for members to share their insights, best practices, challenges, and opportunities related to AI from different perspectives, such as operational, regulatory, legal, etc.
The Working Group will also invite internal and external experts to provide educational sessions on various topics related to AI, such as:

- What is AI and how does it work?
- What are the problems that AI can solve and what are the benefits of using AI?
- How can organizations assess their readiness and capacity for implementing AI?
- How can organizations integrate AI into their business strategies, processes, programs, and products?

We invite you to join the Working Group on AI and participate in this exciting initiative. Please email James Bergeron (jbergeron@ncher.org) with the names, titles, organization, and email addresses of those who wish to participate.

House, Senate Pass Short-Term Continuing Resolution While Labor, HHS, Education Appropriations Act Lacks Vote to Pass

Last night, the U.S. Senate passed H.R. 6363, the Furthering Continuing Appropriations and Other Extensions Act, a short-term Continuing Resolution (CR) to keep the federal government in operation past this Friday, November 17th, by a vote of 87-11. Since the House had already cleared the CR earlier in the week, the legislation now heads to the White House for the President's expected signature. The CR includes a two-tiered structure for extending federal funding: funds for the U.S. Departments of Transportation, Housing and Urban Development, Agriculture, and Veterans Affairs (the least controversial) would expire on January 19, 2024 while funds for the U.S. Departments of Education, Labor, Health and Human Services, and Defense (the biggest and most controversial of domestic programs) would last through February 2, 2024. The new CR will give both the House and Senate more time to continue passing each of the 12 appropriations bills that make up the discretionary portion of the federal government.

Also this week, the U.S. House of Representatives considered amendments to H.R. 5894, the Labor, Health and Human Services, Education, and Related Agencies Appropriations

Act, which provides annual funding for the U.S. Department of Education. The lower chamber considered 15 higher education amendments that were made in order, including the following:

- Amendment by Rep. Biggs - #69/167 – Cuts $9.25 billion from the Student Financial Aid Assistance, including Pell Grants (Failed by Vote of 85-350)
- Amendment by Rep. Biggs- #70/169 – Strikes all funding for Student Aid Administration/Federal Student Aid (Failed by Vote of 81-353)
- Amendment by Rep. Biggs - #71/171 – Strikes all funding for Higher Education Programs, including Title III (HBCU), Title V (HSIs), etc. (Failed by Vote of 81-354)
- Amendment by Rep. Molinaro - #72/31 – Increases/decreases funding regarding antisemitic activity on college campuses and access to adequate counseling services (Included in En Bloc Amendment – Passed by Voice Vote)
- Amendment by Rep. Moore - #73/142 – Increases/decreases funding for the TRIO Programs (Included in En Bloc Amendment – Passed by Voice Vote)
- Amendment by Rep. Ramirez - #74/22 – Increases/decreases funding for Augustus F. Hawkins Centers of Excellence Grants (Included in En Bloc Amendment – Passed by Voice Vote)
- Amendment by Rep. Ramirez - #75/103 – Increases/decreases funding for Hispanic Serving Institutions (Included in En Bloc Amendment – Passed by Voice Vote)
- Amendment by Rep. Lawler - #77/329 – Increases/decreases funding for the Office of Civil Rights to prioritize antisemitic investigations on college campuses (Included in En Bloc Amendment – Passed by Voice Vote)
- Amendment by Rep. Crane - #92/19 – Decreases program administration funding by $37.7 million (Failed by Vote of 151-273)
- Amendment by Rep. Greene - #104/3 – Reduces the salary for Education Secretary Miguel Cardona to $1 (Failed by Vote of 165-260)
- Amendment by Rep. Hageman - #107/252 – Prohibits the Department of Education from carrying out strategies from a September 2023 report on increasing diversity in higher education (Passed by Voice Vote)
- Amendment by Rep. Hern - #110/196 – Prohibits funding in the bill to be spent on Confucius institutes (Passed by Voice Vote)
- Amendment by Rep. Lawler - #114/327 – Prohibits funds in the bill from going to any institution of higher education that facilitates/provides funding for the

promotion of antisemitism (Passed by Vote of 373-54)

- Amendment by Rep. Miller - #118/30 – Reduces the salary of the Assistant Secretary for Civil Rights to $1 (Failed by Vote of 157-268)
- Amendment by Rep. Smucker - #142/176 – Prohibits the Department of Education from implementing or enforcing its final rule prohibiting education and training programs from exceeding their state's minimum hours requirement (Passed by Voice Vote)

Following amendment action, the House Republican leadership announced that it would delay a final vote of the underlying bill until later in the month/early December as the legislation lacked the necessary support to pass the chamber. House Rules Committee Chairman Tom Cole (R-OK) said that the bill would have been defeated because of strong opposition from Republican moderates who were not pleased with the level of cuts. The Labor, HHS, Education, and Related Agencies Appropriations Act is the third bill that the leadership has had to pull over the last two weeks for lack of support among both moderates (who oppose the level of spending cuts) and conservatives (who want additional cuts) leading to questions as to the best path forward once the chamber returns from its one-week recess to celebrate Thanksgiving.

For additional coverage, see the following articles:

Senate passes Johnson bill to fund government, averting shutdown threat | The Hill

Senate votes to keep government open amid wide gulf on spending - Roll Call

Department of Education Announces New FAFSA Release By December 31, ISIRs Delayed Until Late January

Yesterday, the U.S. Department of Education announced that the simplified 2024-2025 Free Application for Federal Student Aid (FAFSA) would be available for students and families seeking federal financial aid by December 31, 2023. The Department also announced that institutions of higher education would not begin receiving aid eligibility information, including Institutional Student Information Records (ISIRs), before the end of January 2024.

As previously reported, Congress passed the FAFSA Simplification Act in 2021 that requires the Department to update the FAFSA and allow applicants to securely transfer their federal tax information necessary for eligibility calculation directly from the Internal Revenue Service (IRS), removing the step of connecting to the IRS Data Retrieval Tool for almost 9 million applicants who have been using the tool each year. The new law - and the corresponding new form - also includes updates to student aid calculations that extend Pell Grants to more students, linking Pell Grant eligibility to family size and the federal poverty level. As part of the announcement, the Department said that some features of the new FAFSA, including a streamlined connection to certain state financial aid applications and the ability for unpaid preparers to complete FAFSA forms on behalf of students, will not be available until the 2025-2026 FAFSA. The Department also released state-by-state estimates for both the number of students that it expects will receive a Pell Grant and the number of students it expects will receive the maximum Pell Grant award under the new FAFSA.

Senate Rejects CRA Resolution to Repeal Department of Education's SAVE Plan

Late last night, U.S. Senate failed to pass Senate Joint Resolution 43, a Congressional Review Act (CRA) resolution to repeal the U.S. Department of Education's final rule creating a new Income-Driven Repayment (IDR) Plan, called the Saving on A Valuable Education (SAVE) Plan. Under the CRA, either the House or Senate can pass a resolution nullifying an administrative action by a simple majority vote. If the resolution garners the necessary support and is signed into law by the President, the federal agency must cease the action that is the subject of the resolution. The final vote on the resolution was 49-50 vote with Sen. Joe Manchin (D-WV) the only Democrat to join all Republicans to vote in favor of the resolution. Prior to the vote, Senate Health, Education, Labor, and Pensions Committee Ranking Member Bill Cassidy (R-LA) said that the new SAVE Plan was deeply irresponsible and unfair to "force taxpayers to shoulder the responsibility of paying off someone else's debt." But Senate Majority Leader Chuck Schumer (D-NY) said that the new SAVE Plan was an important safety net for borrowers struggling to repay their debts and the Republican effort would abruptly cancel a benefit for borrowers with no warning.

Due to the failure of the resolution, the Department can continue its outreach plan to enroll additional borrowers in the SAVE Plan. Separately, House Republicans passed House Joint Resolution 88, a companion CRA resolution, out of the House Education and the Workforce Committee and included language blocking the SAVE Plan in their version of the Labor, Health and Human Services, Education, and Related Agencies

Appropriations Act. For additional coverage, see this article from The Hill.

Departments of Education, Justice Announce First-Year Results of New Student Loan Bankruptcy Discharge Process

Today, the U.S. Departments of Education and Justice announced the results of the first year of the new student loan bankruptcy process. According to the announcement, a year after DOJ instituted a new process to guide the discharge of federal student loans, data and information show that the process is achieving its goals of ensuring consistency and equity in the evaluation of student loan discharge requests, and that the process has translated into increasing numbers of eligible federal student loan borrowers seeking and obtaining debt relief under the Bankruptcy Code.

In November 2022, the Departments committed to assess the new guidance after the first year of implementation. To do so, the Department of Justice (DOJ) surveyed all 94 U.S. Attorneys' Offices and collected input on the new process from consumer law groups, including the National Association of Consumer Bankruptcy Attorneys. DOJ's Civil Division conducted large-scale trainings for Department attorneys, as well as public training events supported by regional bar associations and the courts, including a training session hosted by the American Bankruptcy Institute that was attended by over 300 consumer bankruptcy attorneys. The Department of Education participated in training events hosted by regional bar associations, as well as at the annual meeting of the National Association of Chapter Thirteen Trustees (NACTT), which included private attorneys as well as Chapter 13 trustees.

The information that the Departments collected indicates that the new process is making it easier for eligible debtors to achieve bankruptcy discharge of their federal student loan debts. Since the process was announced one year ago:

- Over 630 cases were filed in the first ten months of the new process (November 2022 through September 2023), a significant increase from recent years. The Departments anticipate that this trend will continue.
- Ninety-seven percent of all borrowers in the cases filed are voluntarily using the new, streamlined process.
- The vast majority of borrowers seeking discharge have received full or partial discharges. In 99 percent of cases where courts have entered orders or judgments

to date, the federal government recommended, and the court agreed to, a full discharge or partial discharge.

- Two bankruptcy courts—the Northern and Central Districts of California—have adopted procedures recognizing the utility of the new process, aimed at further streamlining the procedures debtors must follow to obtain discharges.

“It is clear that this improved process is helping struggling borrowers,” said Chief Operating Officer of the Office of Federal Student Aid Rich Cordray. “This guidance is an important piece of our overall efforts to create a student loan system that is more humane, with affordable payments and programs that work as intended. In partnership with the Justice Department, we will continue working to streamline this process and to provide student loan borrowers a pathway to obtaining much-needed relief in bankruptcy.”

Because the new process is working well, DOJ said that it is not making any changes to the guidance at this time. The Departments will continue to meet regularly to ensure that the guidance is appropriately implemented and to consider adjustments as warranted.

GAO Releases Report on Fraud Risks Within Federal Student Loan Forgiveness Efforts

Today, the U.S. Government Accountability Office (GAO) released a report titled, Student Loans: Education Should Proactively Manage Fraud Risks in Any Future Debt Relief Efforts. In the report, GAO found that the U.S. Department of Education quickly approved borrowers for debt relief under its new federal student loan forgiveness program without applying key practices to prevent fraud. For example, the agency did not verify certain borrowers' self-reported income before approving them for relief. The report says that before ceasing work on the original program while it was under review by the U.S. Supreme Court, the Department developed two processes to assess borrower eligibility, but each process had shortcomings at detecting and preventing fraud. The first process, which affected the majority of borrowers, relied on an application process. The second was an automatic process developed for borrowers who had recently reported income information to the Department. The report includes the following:

Application process. At the time it ceased work on the program, Education had approved an estimated 12 million-plus borrower applicants without evaluating the accuracy and outcomes of its application process. To assess applicants' incomes, Education used data associated with post-enrollment earnings and aggregate income data to estimate the likelihood that applicants exceeded the income thresholds. Certain applicants were approved, and others were selected for additional review and would have been required to submit tax documentation to verify their income. However, Education had not evaluated the outcomes of its application process for either the applicants it had selected for review or that it had approved. For example, Education had not collected or reviewed any income documentation from selected applicants at the time it ceased work on the program.

In addition, Education did not have procedures in place to evaluate the borrowers it had approved, including whether its approach for approving borrowers was an effective tool for preventing fraud. Education's documentation recognized the risk of potential errors, and federal internal control standards dictate that agencies should conduct evaluations to determine the effectiveness of their controls. Without evaluative checks in any future efforts, Education will be unable to ensure that its systems are effectively preventing ineligible borrowers from receiving relief.

Automatic Approvals. Education planned to automatically approve over 2 million borrowers for relief based solely on their self-reported income drawn from recent financial aid applications and enrollments in loan repayment plans. Education and GAO have both previously identified problems with people underreporting their income on these forms, but the department did not take any steps to verify incomes for these borrowers before automatically approving them for relief. Federal internal control standards state that managers should take steps to mitigate fraud risks, but Education did not deploy any tools to verify these borrowers' incomes or ensure they were eligible for relief.

To address its findings, GAO made three recommendations:

- The Secretary of Education should incorporate robust evaluations of fraud risk management activities into any future debt relief efforts before approving borrowers for relief. This could involve partnering with the Internal Revenue Service to cross-check incomes of approved borrowers.
- The Secretary of Education should fully implement all stages of its fraud risk management plans for any future debt relief efforts before approving borrowers for relief.

- The Secretary of Education should implement controls to avoid relying solely on self-reported data in any future debt relief efforts.

U.S. Department of Education News

For today's Federal Register, click here.

The following announcements were posted to Federal Student Aid's Knowledge Center:

- (GENERAL-23-100) Update on the Simplified, Streamlined, Redesigned 2024-25 FAFSA
- (GENERAL-23-99) Reminder: Active Confirmation of TG Numbers (SAIG Mailboxes) and Electronic Services User Accounts Required by Dec. 7, 2023 to Maintain Access to Federal Student Aid Systems
- (CB-23-20) Federal Perkins Loan Program Cash on Hand Update Due Dec. 15, 2023
- (CB-23-19) FISAP Edit Corrections Due Dec. 15, 2023

General News

Inside Higher Education reports that, according to new data released by the Common App, college applications for the fall rose by 41 percent over pre-pandemic levels, buoyed by a big upswing in minority applicants.

Higher Education Dive reports that chief executive officers of major education technology and for-profit education companies recently told investors how they fared in their most recent financial quarters, offering insight into the broader higher education sector.

Do not forward this email with this link included.
Anyone clicking on this link will unsubscribe you from the Daily Briefing distribution.
Unsubscribe | Manage subscription

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

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