NCHER BRIEFING

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House Appropriations Committee Passes Labor, HHS, Education Appropriations Act

Yesterday, the House Appropriations Committee met in executive session and passed the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act for Fiscal Year 2025 by a vote of 31-25. In his opening statement Subcommittee Chairman Robert Aderholt (R-AL) said that federal spending is out of control and, while most of the growth in spending is mandatory, it is the committee's responsibility to reduce social spending, restore fiscal sanity, and fight inflation. He said that our constituents should not be asked to pay for reckless DC beltway spending and that Congress must stop the out-of-control spending spree. On higher education, Chairman Aderholt said that the bill stops the U.S. Department of Education's efforts on federal student loan forgiveness. "Within hours of the Supreme Court ruling, the Administration began rolling out one initiative after another to subvert the highest court in the land," he said. "This bill protects the hard-working American middle class from the largest bailout of student loans in American history, a bailout so large that new estimates from the Congressional Budget Office show an annual deficit of nearly two trillion dollars. It is not radical to believe that when you take out a loan, you should have to pay it back." In her opening statement, Ranking Member Rosa DeLauro (D-CT) strongly condemned the bill's funding levels and policy riders. She said that it abandons college students and lower-income workers trying to gain an education or advance their career for their chance at the American Dream. "We know that this bill will never become law," she said. "But I thank the Republican majority for once again demonstrating beyond any doubt where they seek to take public education in this country.

I am glad you are letting American parents see what would become of their child's classroom. American families deserve to know not only how the Republican majority's bill decimates support for K-12 education – they deserve to know how it would abandon students, young adults, workers and seniors through all stages of their education and careers."

Following opening statements, the committee debated and defeated several amendments impacting elementary and secondary education and health and human services. On higher education, the committee debated and defeated an amendment by Rep. Mark Pocan (D-WI) to strike language in the bill prohibiting the Department of Education from implementing its new federal student loan forgiveness program and the Saving on a Valuable Education or SAVE Plan, among many provisions, by a vote of 23-33. The committee then passed the legislation, which will now head to the full U.S. House of Representatives for additional consideration.

As previously reported, the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act provides $185.8 billion for programs under the jurisdiction of the U.S. Department of Education, U.S. Department of Labor, and U.S. Department of Health and Human Services. The funding level is $23.8 billion (or 11 percent) below the FY 2024 enacted level and $36.2 billion below the President's budget request. According to a summary, the bill eliminates 57 programs, including 21 that are not authorized, and reduces funding for 48 other programs.

The legislation includes the following provisions of importance to the NCHER membership:

- The bill provides $72 billion in discretionary funding for the Department of Education, which is $11 billion (or 13 percent) below the FY 2024 enacted level and $14.5 billion below the President's budget request. The bill provides $23.5 billion for federal financial aid programs, including Pell Grants, Federal Supplemental Opportunity Grants, TRIO Programs, and GEAR Up.
- The bill maintains funding for Pell Grants at the maximum amount of $6,335. When including both discretionary and mandatory funding, the maximum award will be $7,395, the same as provided in FY 2024.
- The bill extends the authority for account maintenance fees paid to guaranty agencies for an additional year. The language is as follows: SEC. 306. Section 458(a)(4) of the HEA (20 U.S.C. 22 1087h(a)) shall be applied by substituting ''2025'' for ''2021''.
- The bill provides $1.53 billion for federal student aid administrative expenses. It includes long-standing language requiring the Secretary of Education to allocate new student loan borrower accounts to eligible student loan servicers on the basis of their past performance compared to all loan servicers utilizing established common metrics and on the basis of the capacity of each servicer to process new and existing accounts, and language prohibiting the Secretary from awarding contracts 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 to manage a unique portfolio of borrower accounts and the full life-cycle of loans from disbursement to pay-off. It does not include last year's language requiring the Secretary to reallocate accounts from servicers for reoccurring

noncompliance with Federal Student Aid (FSA) guidelines, contractual requirements, and applicable laws, including failure to sufficiently inform borrowers of available repayment options. It also does not include language requiring that federal student loan servicers be evaluated on their ability to meet contractual requirements (including an understanding of federal and state law), future performance on the contracts, and history of compliance with consumer protection laws; requiring that federal prime contractors are held accountable for meeting the requirements of their contract and the performance and expectations of subcontractors; and requiring FSA to provide more support to borrowers at risk of delinquency or default in any new federal loan servicing environment.

- The bill prohibits the Department of Education from: (1) implementing the modifications of statutory and regulatory provisions relating to debt discharge that was published in the Federal Register on October 12, 2022; (2) implementing, administering, or enforcing a final rule creating a new Income-Driven Repayment Plan; (3) implementing, administering, or enforcing the new borrower defense to repayment rule published in the Federal Register on November 1, 2022; (4) implementing, administering, or enforcing the new 90-10 rule published in the Federal Register on October 28, 2022; and (5) implementing, administering, or enforcing the new gainful employment and financial value transparency rule published in the Federal Register on October 10, 2023.

For additional coverage, including an archived webcast of the markup session, visit the committee website.

House Education and the Workforce Committee Passes FAFSA Deadline Act in Bipartisan Vote

Yesterday, the House Education and the Workforce Committee met in executive session and passed H.R. 8932, the FAFSA Deadline Act, by a vote of 34-6. The bill would require the U.S. Department of Education to make the Free Application for Federal Student Aid (FAFSA) available to students by October 1st. Currently, the Higher Education Act requires the Department to make the FAFSA available no later than January 1 of the applicant's planned year of enrollment or on or around October 1 prior to the applicant's planned year. The bill would require the agency to make the form available no later than October 1 prior to the applicant's planned year of enrollment.

In her opening statement, Chairwoman Virginia Foxx (R-NC) said that the FAFSA is designed to make postsecondary education accessible and affordable for many students across the United States. But the Department of Education's failure to implement the new, simplified FAFSA has thrown students, families, and schools into disarray. She said that current law recommends the FAFSA be released by October 1, but allows the Department to delay the FAFSA release as late as January 1. "Last year, the Department abused this statutory gap," Chairwoman Foxx said. "The administration's abysmal lack of communication about the FAFSA release date was followed by an inept 'soft launch,' millions of processing errors, and months of additional delays. Even as I speak, some FAFSA components for this year are still incomplete and unavailable. Continual FAFSA delays cause great confusion for schools and families and make it difficult for states and nonprofits to process aid packages or award scholarships. The Department's lack of communication and transparency shows it learned little from last year's disaster." Chairwoman Foxx said that H.R. 8932 seeks to rectify this by ensuring the 2025-2026 FAFSA is released and fully operational by October 1, 2024. "By establishing a hard deadline of October 1, H.R. 8932 will provide students, families, and schools with much-needed clarity and stability," she concluded. "I hope my colleagues agree that our top priority should be to eliminate the possibility of another botched rollout filled with uncertainty and pass H.R. 8932."

In his opening statement, Ranking Member Bobby Scott (D-VA) said that H.R. 8932 would present the Department of Education with an arbitrary, accelerated deadline of October 1 to roll out the FAFSA. He said that, in 2020, Congress took measures to simplify the form and better account for student needs by increasing access to the Pell Grant. Every year, FAFSA offers millions of students the resources they need to enroll in and complete four-year, two-year, and vocational credentials, thereby strengthening future generations and improving the workforce. "This year, all members of this Committee have heard from students who are unable to complete the FAFSA form due to a variety of technical challenges," Ranking Member Scott said. "Nobody thinks this is acceptable. My colleagues and I have repeatedly spoken to the Department to express our frustration about this school year's FAFSA implementation and my concern that these technological flaws will have long-term ramifications for some of our most vulnerable students. However, I doubt that the conditions imposed on the Department by H.R. 8932 will do anything to improve the situation and may, in fact, make matters worse." He said that Republicans are setting a fast-approaching deadline for the Department to meet without providing any necessary resources or technical support that might actually help. "I want FAFSA to work," Ranking Member Scott said. "We all want FAFSA to work, and I want students to get the aid they're entitled to in a timely manner. What we don't want is for the Department to rush to meet arbitrary deadlines and push out a FAFSA form that – once again – has the same technical problems that students experienced this year when they could get it straight a couple of days after the deadline and release a form that actually works. This legislation would do nothing to actually fix FAFSA or help students but would set the Department up for failure just to potentially score some political points. I guess we could complain on October 1st, but that doesn't do any good."

Following opening statements, Rep. Bob Good (R-VA) offered an amendment that requires the Secretary of Education to certify to the House Education and the Workforce Committee and the Senate Health, Education, Labor, and Pensions Committee prior to the initiation of the processing cycle but no later than September 1st that the U.S. Department of Education will or will not meet the October 1st deadline. If the Department anticipates that it will not meet the deadline, the Secretary is required to testify before the committees and discuss the financial impact that such failure will have on students and families. The amendment passed by voice vote. The committee then passed the legislation, which will now head to the full U.S. House of Representatives for additional consideration.

For additional coverage, including an archived webcast of the markup session, visit the committee website. For additional news coverage, see this article from Inside Higher Ed.

Republican Attorneys General File Emergency Motion with Supreme Court Over Department of Education's SAVE Plan, Education Secretary Cardona Sends Letter to Borrowers

On Monday, Attorneys Generals from Alaska, South Carolina, and Texas filed an emergency motion with the U.S. Supreme Court to vacate the stay issued by the U.S. Court of Appeals for the Tenth Circuit stopping the payment reduction portion of the U.S. Department of Education's Saving on a Valuable Education (SAVE) program. The motion was sent to Justice Neil Gorsuch, who handles emergency appeals arising from the 10th Circuit, but it could be referred to the full court for a vote. In the motion, the states say that they are likely to succeed on the merits of the case: the states have standing to challenge the final rule, the final rule flunks the major questions doctrine and other legal interpretations, and the final rule is procedurally unlawful. The motion also asks the court to treat the application as a petition for a writ of certiorari and either summarily affirm the District Court and order it to vacate the final rule in light of Nebraska or set the case for briefing and oral argument. For further coverage, see these articles from The Hill and

Forbes.

Separately, Education Secretary Miguel Cardona sent a letter to federal student loan borrowers saying that the Biden Administration will implement the SAVE Plan "to the fullest extent possible." In the letter, the Secretary said that, starting this month, the SAVE Program will cap borrowers' undergraduate loan payments at 5 percent of their income and that borrowers "can still benefit from the vast majority" of the plan's provisions, even though courts continue to litigate cases around the program. Individual borrowers making $33,385 or less per year and families of four making $70,200 or less will still benefit from no monthly payments; all other borrowers can expect to save more than $1,000 per year on loan payments under SAVE, the letter said. "President Biden and our Administration will not stop fighting to make sure Americans have affordable access to the lifec-hanging opportunities a higher education can provide," Secretary Cardona wrote.

House Republicans Send Letters to Federal Agencies Asking for Review of Rulemakings in Light of Supreme Court Decision Overturning Chevron Doctrine

Yesterday, House Majority Leader Steve Scalise (R-LA) announced that Republican Committee leaders had sent letters to all federal agencies, including the U.S. Department of Education, demanding a review of their regulations as a result of the U.S. Supreme Court's decision to overturn the Chevron doctrine. In the letter to Secretary of Education Miguel Cardona, House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) and House Oversight and Accountability Committee Chairman James Comer (R-KY) say that, "perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations. Many of these rules have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined. The expansive administrative state encouraged by Chevron deference has undermined our system of government, overburdening our citizenry and threatening to overwhelm the Founders' system of checks and balances. Thankfully, the Court in Loper Bright has now corrected its Chevron error." The committee leaders asked for a list of all pending and concluded rulemakings, adjudications, and enforcement actions in which the agency is relying on an interpretation of statutory authority that might have been eligible for Chevron deference; and a list of all judicial decisions not overturned by a higher court in which the court deferred under Chevron to the agency's interpretation of statute.

House and Senate Committee Republicans Ask for Update from Department of Education Inspector General on FAFSA Implementation

Today, House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC), along with Senate Health, Education, Labor, and Pensions Committee Ranking Member Bill Cassidy (R-LA), Senate Appropriations Committee Ranking Member Susan Collins (R-ME), Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education Ranking Member Shelley Moore Capito (R-WV), and House Appropriations Subcommittee on Labor, Health and Human Services, and Education Chairman Robert Aderholt (R-AL), sent a letter to the U.S. Department of Education Office of Inspector General (OIG) urging it to provide an update on its investigation into the botched implementation of this year's Free Application for Federal Student Aid (FAFSA). In the letter, the lawmakers say that they are aware the OIG is investigating the Department's implementation of the FAFSA and urge the office to "continue to focus on this critical matter and to share your findings with Congress and the American people." The committee leaders request that the OIG complete its evaluation of the development of the 2025-2026 FAFSA and make recommendations to the Department for correcting any deficiencies found in the development and launch process; address the Department's implementation of the FUTURE Act and the FAFSA Simplification Act; and issue full written reports on how any management challenges within the Department and Federal Student Aid contributed to the botched rollout of the 2024-2025 FAFSA. It asks for a briefing and timeline on each request by July 25, 2024.

CBO Releases Monthly Budget Report for June, Department of Education Outlays Higher Because of Cost Estimates of Federal Loan Program

On Tuesday, the Congressional Budget Office (CBO) released its Monthly Budget Review for June 2024, which showed that the federal budget deficit was $1.3 trillion in the first nine months of Fiscal Year (FY) 2024, $118 billion less than the deficit recorded during the same period last fiscal year. Federal revenues were $342 billion (or 10 percent) higher and federal outlays were $225 billion (or 5 percent) higher from October through June than during the same period in FY 2023. But CBO noted that shifts in the timing of certain payments affect that comparison - federal outlays in the first nine months of each fiscal year were reduced by shifts of some payments to September that otherwise would have been due on October 1, which fell on a weekend in both years. Of interest to the NCHER membership, CBO said that federal outlays by the U.S. Department of Education increased by $29 billion (or 17 percent) primarily because the agency recorded an increase of $74 billion in June 2024 in the estimated costs of outstanding federal student loans, mostly related to the costs of previously announced loan discharge policies. The report said that increases in the estimated costs of outstanding loans were recorded in the first nine months of FY 2023, but the increases recorded so far this year have been larger. The totals do not include the costs that the Department might record in 2024 for the debt cancellation policy described in a proposed rule published in April.

House Ways and Means Committee Passes Education and Workforce Freedom Act, Expands 529 Plans to Include Postsecondary Credentialing Expenses

On Tuesday, the House Ways and Means Committee met in executive session and passed H.R. 8915, the Education and Workforce Freedom Act, by a vote of 23-13. The legislation would amend the Internal Revenue Code of 1986 to expand the expenses treated as qualified higher education expenses for purposes of 529 accounts to include additional elementary and secondary school expenses such as fees for dual enrollment in an institution of higher education and certain postsecondary credentialing expenses.

In his opening statement, Chairman Jason Smith (R-MO) said that a four-year college degree is not right for everyone and that Americans who want to learn a trade or skill deserve the same shot at their dreams. “That’s why this bill covers tuition, fees, books, and other costs related to technical training,” he said. In his opening statement, Ranking Member Richard Neal (D-MA) said that the bill’s elementary and secondary education provisions would pit public schools against other modes of school. “Public schools are part of the foundation of our democracy, and 529 plans can be enhanced without putting the institutions that instill so much in our younger generations at risk,” he said. After opening statements on the bill, Rep. Lloyd Doggett (D-TX) offered an amendment prohibiting taxpayers that earn more than $1 million from using their 529 plans to cover homeschool expenses. The amendment failed by a vote of 14-22. The committee then passed the legislation, which will now head to the full U.S. House of Representatives for additional consideration.

The committee also passed H.R. 8914, the University Accountability Act, which would amend the Internal Revenue Code of 1986 to impose penalties with respect to civil rights violations by certain tax-exempt educational institutions, and H.R. 8913, the Protecting American Students Act, which amend the Internal Revenue Code of 1986 to exclude those students who are not eligible for assistance under Title IV of the Higher Education Act of 1965 from the calculation to determine if certain private colleges and universities are subject to the endowment tax.

For additional coverage, including an archived webcast of the markup session, visit the committee website. For additional news coverage, see this article from Inside Higher Ed.

Gallup Releases Survey Finding Increasing Number of Adults Have Little or No Confidence in Higher Education

Earlier this week, Gallup released the results of a new survey, which found that an increasing proportion of U.S. adults say they have little or no confidence in higher education. As a result, Americans are now nearly equally divided among those who have a great deal or quite a lot of confidence (36 percent), some confidence (32 percent), or little or no confidence (32 percent) in higher education. When Gallup first measured confidence in higher education in 2015, 57 percent had a great deal or quite a lot of confidence and 10 percent had little or none. The latest results are based on a June 3-23, 2024 Gallup survey that gauged Americans' confidence in various institutions. Key findings include the following:

- A review of the historical trends shows that confidence in higher education has dropped among all key subgroups in the U.S. population over the past two decades, but more so among Republicans. Americans who lack confidence in higher education today say their concerns lie in colleges pushing political agendas, not teaching relevant skills, and being overly expensive.
- Confidence in higher education among Republicans today is nearly a mirror image of what it was nine years ago. In 2015, 56 percent of Republicans had a great deal or quite a lot of confidence, and 11 percent had little or none. Now, 20 percent are confident and 50 percent have little or no confidence.

- Republicans are not alone in having reduced confidence in higher education, as 35 percent of independents, down from 48 percent in 2015, and 56 percent of Democrats, down from 68 percent, are confident.
- In the past year, all party groups have shown at least some increase in the percentage with very little or no confidence, and a decrease in the percentage saying they have some confidence. None of the party groups has shown meaningful change in high confidence over the past year.
- Roughly one-third of Americans who have a great deal or quite a lot of confidence in higher education say they value education and the training and opportunities it provides as an explanation of their faith in the institution.
- Of Americans who lack confidence in higher education, 41 percent mention colleges being "too liberal," trying to "indoctrinate" or "brainwash" students, or not allowing students to think for themselves as reasons for their opinions. Nearly the same percentage, 37 percent, are critical of higher education for not teaching relevant skills, for college degrees not meaning much, or for graduates not being able to find employment. Twenty-eight percent mention cost concerns, such as the price of a college education or high student debt levels. Other, less-common reasons for not having confidence in higher education focus on the quality of teaching, political unrest, unequal access to college, and free speech issues.

U.S. Department of Education News

For today's Federal Register, click here.

Department of Education Homeroom Blog: Improvements for Borrowers Working Toward Public Service Loan Forgiveness

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

- (GENERAL-24-85) Updates on the Availability of eZ-Audit for the Electronic Submission of Annual Financial and Compliance Audit Statements for Proprietary Institutions
- (CB-24-14) Notification of Campus-Based Funding for the 2024–25 Award Year
- (GENERAL-24-84) NSLDS Post-screening & Additional Identity Verification for the 2024–25 Cycle

Member News

Education Loan Finance (ELFI) was recently recognized by NerdWallet and selected as a winner in its Student Loan Refinancing for Parents category. A team of trusted Nerds, composed of seasoned journalists and subject-matter experts, used a comprehensive scoring formula to objectively evaluate over 1,000 financial products. Top picks across credit cards, personal loans, banking, investing, mortgages, insurance, travel rewards, and student loans are featured in this year's awards. "We are honored to be recognized for our parent-focused refinancing product, since it proves that our commitment to personal service and outstanding products is paying dividends for our customers," said John Ferramosca, Senior Vice President and Head of Business Development at ELFI. "NerdWallet's rigorous evaluation of financial products ensures consumers can trust ELFI has one of the top Student Loan Refinancing for Parent products on the market to help meet their financial needs," said Sam Yount, Vice President for Consumer Credit at NerdWallet.

MOHELA recently announced that it set a program record during its time as the U.S. Department of Education's Office of Federal Student Aid's (FSA) interim Public Service Loan Forgiveness (PSLF) servicer from July 2022 through April 2024. "MOHELA is proud of our record in supporting the federal government as their interim PSLF servicer during its transition to a new loan servicing environment," said Scott Giles, Chief Executive Officer and Executive Director of MOHELA. "Our dedicated team of customer service representatives worked diligently to support federal borrowers during this time, setting the record for processing the highest amount of forgiveness in the history of the government-run program. This achievement reflects MOHELA's continued commitment to assisting and supporting the borrowers we serve as they repay their student loans." During the history of the program, almost 876,000 borrowers have received PSLF forgiveness. Of those who received PSLF forgiveness under the program, MOHELA processed nearly $55 billion in forgiveness for over 737,000 borrowers at the direction of FSA. In contrast,

MOHELA also announced that it has been awarded a 2024 Top Workplace by the St. Louis Post-Dispatch for its dedication to Missouri families. MOHELA was previously awarded a Top Workplace by USA Today in April 2024. "We are honored to be awarded as a Top Workplace in St. Louis and recognized for our dedication to our employees and the student borrowers we serve," said Scott Giles of MOHELA. "This recognition highlights our ongoing commitment to fostering a family-like workplace environment for our employees whose service helps families in Missouri and nationwide. We believe that when our employees are supported and cared for, they are best equipped to fulfill our mission of providing the highest level of service to our borrowers." The Top Workplaces employer recognition award recognizes organizations with at least 50 employees in the Greater St. Louis area. Winners are selected by the St. Louis Post-Dispatch based on employee feedback gathered through an employee engagement survey.

directly prior to MOHELA becoming the PSLF servicer, only about 165,000 borrowers had received $10.5 billion in loan forgiveness during the previous five-year period from 2017 through June 2022.

General News

Senate Republican Leader Mitch McConnell (R-KY) gave a speech on the Senate Floor on the U.S. Department of Education's Saving on a Valuable Education (SAVE) Plan saying that the Biden Administration's student loan schemes have been found illegal yet again.

Inside Higher Ed reports that a suite of new regulations governing higher education took effect last Monday. Here's what you should know about the key measures now in place and the legal challenges they face.

Diverse: Issues In Higher Education reports on the state of student loans saying that it is about chaos and confusion.

NPR reports that some of the nation's largest employers, including Walmart and McDonald's, are now broaching a new frontier in higher education: convincing colleges to give retail and fast-food workers credit for what they learn on the job, counting toward a degree.

Inside Higher Ed reports that the Republican Party's platform for 2024 calls for the creation of "drastically more affordable" higher education alternatives, accreditation reform, the restoration of "classic Liberal arts education" and a reversal of the U.S. Department of Education's Title IX regulations, among other policies.

Higher Ed Dive reports that completions of the Free Application for Federal Student Aid largely stalled in June, fueling enrollment concerns.

Business Insider reports that the Biden Administration's second attempt at federal student loan forgiveness could now happen in October.

Inside Higher Ed reports on Project 2025, the sweeping conservative blueprint developed by the Heritage Foundation for a second Trump Administration that would dismantle the U.S. Department of Education, privatize student loans, and end all ongoing Title IX investigations.

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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