

## *Higher Education News for February 2008*

### **Higher Education Reauthorization Bill Passes House**

*Source: Higher Education Washington, Inc., 2/19/08 (www.hewi.net)*

Late on Thursday night, the House passed the Higher Education Reauthorization Bill. It was passed on a bipartisan basis after a long day of bickering about rules for amendments as well as motions to include unrelated provisions on FY09 appropriations requests.

The College Opportunity and Affordability Act passed the House with a vote of 354-58. The bill has a number of new reporting requirements, which we have highlighted in the past. Some of the more significant provisions of the bill are the college cost watch lists, the campus-based digital theft preventions, disclosure of the transfer of credit policies and details of arrangements with student-loan companies including preferred lender lists.

The most fireworks of the bill's passage actually came before the bill was actually debated on the floor. There were close to 60 amendments offered to the Rules Committee and the Committee only allowed 27 of those amendments. The majority of those amendments were submitted by Republicans and several of those would have prevented federal aid from going to undocumented/illegal immigrants, expanded the Solomon amendment, required institutions that use affirmative action to disclose their admissions policies, stopped federal funds from institutions that partner with any entity that discriminates against the military, endorsing the Horowitz Academic Bill of Rights, and McKeon's effort to have the Education Department explore the impact on the student loan industry by last fall's Congressionally mandated subsidy cuts and the current credit crunch. The Rule for the floor debate passed by the Rules committee did prohibit the House from considering an amendment proposed by Rep. Welch (D-VT) which would have removed a provision that would punish states that cut their higher education budgets. That provision in the bill would withhold federal matching funds from states that reduce their appropriations to colleges below the previous year's level or a five-year average.

The only amendment that was allowed by the rule and not agreed upon was one introduced by Rep. Davis (D-ILL) which would have made private student loans dischargeable in bankruptcy. This would have allowed borrowers to wipe out all their debit after five years of repayment, as one could imagine, this was strongly supported by students and consumer groups and opposed by the banking industry.

A summary of the amendments accepted to the bill would:

- Give the Education Department more authority to regulate private student loans, prompted by last year's investigations into illegal inducements given to colleges by lenders, aimed at regulating lenders and college officials in making loans to students.
- Require colleges develop methods for giving their students legal ways to download movies and music, and that institutions explore technologies to stop

illegal peer to peer file sharing. This provision had been strongly opposed by several college groups, especially since those promoting it based their arguments largely on data about campus downloading that have since been shown to be seriously flawed. MPAA's original statistics stated that 44% of those illegally downloading music were of college age. MPAA was conducting an updated version of their study and found that the original numbers were closer to only 15% of those illegally downloading were college age. EDUCAUSE has actually estimated this number to be closer to 3%. Based on this study correction, as well as the cost to institutions, this will be a provision we will encourage to be struck during conference.

- Bar the U.S. Education Department from issuing regulations governing higher education accreditation, designed to ensure that colleges are measuring student learning outcomes. The legislation would also create a new federal position, an "ombudsman," to intervene in disputes related to accreditation.
- Extend to three years from two the period the federal government uses to calculate the rate at which student loan borrowers default, but delay implementation of the change until 2012 and raise some of the rates at which penalties against institutions with high rates kick in.
- Set a ceiling on the maximum Pell Grant of \$9,000, and allow for students to receive Pell Grant funds year-round, instead of just during the previously standard academic year.
- Require states to maintain their financial support of higher education and allow the Education Department to withhold some funds to states that cut their college appropriations. This will be an interesting debate during conference as many state legislators strongly oppose this bill.
- Make some much-sought changes in the Academic Competitiveness Grant Program, including making the grants for low-income students available to part-time students and those seeking certificates as well as degrees, and removing the role of the Secretary of Education from deciding whether high school programs are of sufficient academic rigor to qualify students for the grants, leaving that decision instead up to state officials.
- Mandate that textbook publishers expand the information they provide to faculty members about pricing and changes from past editions, and that colleges put information about required books in their course schedules to help students shop for books more cost effectively, among other provisions aimed at easing textbook prices.
- Require more oversight on diploma mills by directing the Education Department to publish lists of accredited institutions and accreditation agencies, among other things.
- Make changes to make it easier for students to get information about their financial aid awards and to simplify the process by which students mainly those from low-income families, can qualify for federal financial aid.
- Establish a loan fund to help colleges and universities damaged or otherwise impaired by natural disasters such as the 2005 hurricanes in the Gulf Coast.
- Toughen standards for teacher education programs.

## **Chair of House Subcommittee on Capitol Markets and 20 Other House Members Ask Administration to Address Student Loan Liquidity**

*Source: Higher Education Washington, Inc., 2/19/08 (www.hewi.net)*

Rep. Paul E. Kanjorski (D-Pa.), Chairman of the House Financial Services Capital Markets, Insurance, and Government Sponsored Enterprises Subcommittee, and 20 other Members of the U.S. House of Representatives have urged Secretary of the Treasury Henry M. Paulson, Jr. and Secretary of Education Margaret Spellings to take action to ensure that students can afford higher education.

The members sent a letter to the administration officials because of their concerns regarding the liquidity of the student loan market, which has tightened considerably in recent weeks. Kanjorki's office said he "aims to ensure that students can obtain needed loans to provide continued access to higher education opportunities."

### **Higher Education Budgets**

*Source: <http://www.insidehighered.com/news/2008/02/28/approps>*

As tight budgets for higher education loom in many states this year, data released Wednesday night show how the past few years have seen a relative recovery for colleges that depend on state support — and a continuation of long-term trends of increased reliance on tuition dollars. State and local funds per student in 2007 grew 3.6 percent in constant dollars over the previous year, according to an annual report on state finance released by the State Higher Education Executive Officers. The per student figure reached \$6,771, which is down from the high point in constant dollars of \$7,621 in 2001, but up considerably from the low point in the last 25 years of \$6,287 in 2004.

The Center for the Study of Education Policy, at Illinois State University, is considered to have the definitive data each year on pure state appropriations for higher education. In January, the center released data showing a 7.5 percent increase for the current fiscal year, while officials were projecting much smaller increases ahead. The idea behind the SHEEO study is to place more of an emphasis on enrollment trends and inflation, as well as on tuition revenue, to give a fuller picture of the funds and the students coming into public colleges. The most notable trend in the data is the long-term increase in tuition revenue as a means of supporting higher education, compared to state and local appropriations.

Paul E. Lingenfelter, president of SHEEO, said that the cycles up and down in state support are typical, and that this year's data probably reflect the good years before the bad that is likely to come. One encouraging fact, he said, is that the back-to-back years of higher ed appropriations outpacing inflation and enrollment growth suggest that "people understand how important higher education more than they did five years ago."

There will be a temptation in states this year to rely on tuition revenue, but Lingenfelter said he hoped that legislators would take a balanced approach. "The real challenge is to get student financial aid, tuition and appropriations in balance," he said.

Over the last five years, the data from SHEEO show, total revenue available for higher education has gone up, but largely because of tuition increases.

### **As Economy Slumps, More States Make It Easier for Colleges to Spend Endowment Assets**

*Source: <http://chronicle.com/daily/2008/02/1884n.htm>*

A growing number of states are passing laws to make it easier for colleges and other nonprofit groups to spend their endowment assets during difficult economic times. A report recommending ways to account for such endowment spending, however, could create special problems for colleges. The new laws allow institutions to pay for scholarships, facilities, and other needs even as their endowments are losing money. While many colleges may not choose to spend from their endowments when their investments go south, the new laws give them the flexibility to do so.

In the past, laws in many states prevented colleges from tapping into their endowments when their investments were performing poorly. For example, if a donor pledged \$1-million to endow scholarships, no money could be used to pay for those scholarships if investment losses pushed the fund's principal below \$1-million. "It really drew a line in the sand on an endowed gift," says Bruce Arick, chief financial officer at Butler University. The new law "lifts that restriction," he says. "It gives more flexibility."

Such laws have been adopted in 14 states on the recommendation of the National Conference of Commissioners on Uniform State Laws, an association of lawyers that drafts and promotes new state laws. The laws are expected to be ratified in most other states over the next few years. But as such laws become the standard for many nonprofit groups, the new rules are causing some confusion about how colleges should be reporting their endowment assets. To help ease the confusion, the Financial Accounting Standards Board, a trade group in Norwalk, Conn., released a proposed set of reporting standards last week to help organizations comply with the new rules. The standards provide guidance on classifying the assets of endowment funds.

Some legal experts worry that the accounting board's interpretation of the rules could give federal lawmakers more ammunition as they scrutinize university endowments. Some members of the Senate Finance Committee, including Charles E. Grassley, a Republican of Iowa, believe that wealthy colleges should spend more of their endowment assets to help needy students pay for college. Jack Siegel, a Chicago tax adviser, said he was concerned that the proposed accounting standards were written in a way that would understate the amount of money that should be held in principal to sustain endowments in perpetuity. That might make it appear as though institutions should be spending more money annually from their endowments.

"Maybe nobody would care if this were just accountants and debits and credits," Mr. Siegel said in an e-mail message. "But this comes in the middle of Senator Grassley and lots of others charging that tuition costs are skyrocketing and these big universities have billions of dollars in endowments that they aren't using to reduce those costs."

The accounting board's reporting guidelines are not final, however. The board is accepting public comments on its proposal until April 18 and will probably revise the document based on those comments.

### **Sallie Mae Tying Loans to Students' Credit Scores and Colleges' Graduation Rates**

*Source: <http://chronicle.com/weekly/v54/i21/21a01902.htm>*

Sallie Mae, the nation's largest student-loan company, has warned colleges it will no longer provide private loans to students with below-prime credit scores and will begin withholding service from colleges with poor graduation rates.

The company announced the changes as a response to its own financial woes, though smaller lenders have announced similar service cutbacks as they cope with a reduction in federal subsidies on government-backed loans and the overall tightening of credit markets stemming from the crisis in mortgage lending.

"Education builds credit worthiness," and "if there's one single variable that's critical, it's graduation," Albert L. Lord, Sallie Mae's chief executive, said in a conference call last week with industry analysts. "Sallie Mae has lent too much money to students who have gone to schools without very good graduation records." The company also sent out letters to colleges warning it will not make private loans — those given by banks without any federal subsidy — to students whose credit ratings are below prime.

For-profit colleges and some categories of private institutions that rely on lower-income students could be the hardest-hit, as such students tend to have lower credit ratings. For-profit colleges also tend to charge higher tuition rates than traditional institutions, such as community colleges, that also attract lower-income and nontraditional students. Such traditional colleges, therefore, might gain some competitive advantage as fewer students choose a for-profit institution.

The decisions by Sallie Mae are among the latest and most far-reaching fallouts from a series of downturns in the student-lending industry, led by the federal subsidy cuts and the mortgage crisis. They nevertheless were greeted with a sense of celebration among some groups concerned that the wide availability of private loans — those given by banks without any federal subsidy — has been encouraging too many students to borrow beyond their means.

## **Under Pressure From Colleges, Congress Softens Cost-Control Plan**

*Source: <http://chronicle.com/weekly/v54/i23/23a00301.htm>*

For the past several years, Congress has been looking for a lever to control rising college tuition. When Republicans were in charge, they proposed withholding federal student aid from colleges that failed to curb their tuition increases. The plan provoked an uproar among college lobbyists, who said it would penalize low-income students, and Republican lawmakers reluctantly backpedaled. When Democrats took over Congress last year, they suggested a gentler, carrot-and-stick approach, offering colleges rewards as well as sanctions.

Under their plan, colleges that raised tuition and fees by more than the average for their sector (four-year, two-year, for-profit, etc.) would be placed on a "watch list," and required to establish "quality-efficiency task forces" to identify "cost-reduction opportunities," while those that limited their tuition growth would be rewarded with more Pell Grants for their students.

But the Democrats' proposal, too, ran into fierce resistance from colleges, which complained that it would punish low-priced institutions while letting some of the nation's most-expensive colleges off the hook. They pointed out that with a sector-average approach, half of all institutions would land on the watch list.

So Democrats in the House of Representatives agreed to compromise, replacing the watch list with three "college affordability and transparency lists" for each sector. Those lists would identify the top 5 percent of institutions in three categories: the most expensive, the least expensive, and those with the highest percentage increases in tuition and fees over the previous three years. Only the institutions on the third list would be subject to the bill's sanctions.

Under that plan, which is included in legislation to reauthorize the Higher Education Act that the House approved last week, far fewer colleges would face sanctions than before. But the watch lists might not be gone for good. The measure will now have to be reconciled with the Senate bill, which retains the original, averages-based lists.

And the House hasn't done away with sector-average comparisons altogether. Under a section of the bill left untouched by lawmakers, colleges whose net tuition and fees outpaced their sector's average would be required to report to the secretary of education on the factors that contributed to their price increases and describe actions they were taking to hold down costs. They would also be required to provide the secretary with tax documents from the previous three years.

Many colleges find those provisions as problematic as the original watch lists. Rewards for institutions that restrained their tuition growth would be based on sector averages, as before.

The bill would also punish states that cut their higher-education budgets. The provision would withhold federal Leveraging Educational Assistance Partnership grants from states that reduce their appropriations to colleges below the previous year's level or a rolling five-year average. LEAP grants, as the federal awards are known, match each dollar that states commit to need-based aid.

That mandate is fiercely opposed by the National Governors Association and the National Conference of State Legislatures, which warn that it would discourage states from raising their higher-education spending in good economic times, since legislatures would then be held to those levels of financing when their fiscal conditions deteriorated. The groups had furiously lobbied members of Congress to strike that provision from the bill, but they failed.

Meanwhile, President Bush has come out against the plan to provide additional Pell Grant money to colleges that constrain tuition growth. In a statement that opposed the entire reauthorization bill, he argued that student aid should not be conditioned on college prices.