Reauthorization Caught Up in Growing Legislative Muddle

The in-fighting in Congress over money was already well underway when Hurricane Katrina hit. But now the hurricane is causing its own storm in Congress, as legislators’ sense of fiscal prudence is coming face to face with their fundamental views of federal obligations in a massive natural disaster. The reauthorization of the Higher Education Act (HEA) is caught dead center in the legislative storm.

The massive student loan program is an entitlement program, and the federal budget that passed earlier this year had already targeted it for cuts to reduce the federal deficit. Since the HEA also happened to be up for reauthorization, the two potentially unrelated legislative processes were linked, and the deadlines for spending cuts started to speed up the sluggish reauthorization process. The Senate, which had been “about to do” HEA reauthorization for more than a year, suddenly produced a 400-plus-page bill over the August recess and rushed it to a unanimous committee vote only three days after the Senate returned from its August recess.

Katrina not only put off reconciliation for a month (see related story), but also made lawmakers consider the student loan program for additional cuts to pay for Katrina relief. In the meantime, the congressional staff that had been focused on HEA reauthorization suddenly rushed to the other side of the Titanic to deal with student aid relief for Katrina victims (see related story). The net effect of all of these changes is a massively complicated and unpredictable legislative process which is likely to produce an even more chaotic HEA bill than the ones that have emerged from the House and Senate Committees.

The Senate is still determined to finish the entire bill, including conference with the House, by the end of the calendar year. Although some House staff are skeptical that such a feat can be accomplished, they are ready to work quickly with the Senate to cut deals and get the legislation done.

NAICU is currently focusing its energies on getting the most improvements possible to the better Senate bill. So far, these changes are being accomplished through tedious “inside the Beltway” negotiations on bill language. Meanwhile, NAICU members throughout the nation have let their congressional delegations know that this is legislation that will have a large impact on their districts and their constituents are keenly interested in it.

How are the bills shaping up?

So far, neither the House nor Senate bills would be an improvement over current law (see side-by-side). While both bills make modest increases in student loan limits, they also remove important provisions designed to ensure the integrity of the student aid system. Both bills also add extensive new reporting requirements on colleges, and set federal rules on transfer of credit—although they make vast improvements to the earlier proposed transfer of credit provisions.

However, the Senate bill is much better overall than its companion legislation in the House, which still includes price controls. Besides the absence of any similar provisions, the Senate bill (Continued on page 2)
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also includes an interesting new supplemental funding device for Pell Grants. If it can survive strict floor rules and conference (huge ifs) it would be an historic boon to Pell Grant funding.

What can you do?
NAICU is encouraging its members to keep up the drumbeat on our key issues. But all members should be ready to jump into more immediate service if both bills pass and we head to conference. Under that scenario, we will need all members to contact their congressional representatives if we are to beat price control legislation and let through as few student aid cuts as possible. Working together, we can make potentially onerous legislation liveable.

For more information, contact Sarah Flanagan at NAICU, (202) 785-8866, or sarah@naicu.edu.

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Budget Outlook Grim for Student Aid

The looming fight over cutting student aid programs to pay for deficit reduction has gone from bad to worse. Reauthorization bills passed by House and Senate committees over the summer already cut between $11 and $14 billion from student loan funds to pay for deficit reduction. Now, with current emergency spending on hurricane relief at $70 billion, and the total estimated to hit between $100 and $200 billion, Congress plans to cut back on many domestic programs, We have every reason to believe that the other student aid programs will also be put on the chopping block.

Operation Offset
On September 21, the House Republican Study Group, a conservative coalition, released a report called “Operation Offset.” The report showed how the government could cut $500 billion over 10 years to pay for hurricane relief, and otherwise reduce government spending. The proposals range from delaying the implementation of the Medicare prescription drug bill, to the usual list of education programs that should be eliminated. This proposal has gained momentum over the last three weeks. On October 6, House Budget Committee Chairman Jim Nussle (R-Iowa) proposed amending the FY 2006 budget resolution to require additional savings as a “down payment” on hurricane relief spending. Nussle proposed a 2 percent across-the-board cut on total appropriations (which could affect student grant and work programs) for a savings of $16.8 billion. An additional $15 billion in mandatory savings through the reconciliation process could lead to even more student loan cuts. Nussle also proposed a rescission package for low-priority FY2006 funds, and de-authorizing programs not funded by appropriators.

In the Senate, Majority Leader Bill Frist (R-Tenn.) has asked President Bush for rescission legislation, which would take back money already approved for spending. Frist has indicated that the Senate will not amend the budget resolution, but he asked committee chairmen to look for additional cuts on their own. Senate Budget Committee Chairman Judd Gregg (R-N.H.) has also been working with a group of senators to find additional savings, but no details or target amounts have emerged.

Because of the push from conservatives, the House is likely to a vote on Nussle's proposal in some form. The Senate, however, will find it difficult to cut deeper than the already questionable $35 billion they are required to save through the reconciliation orders approved last spring. Moderate Republican senators are very concerned about the proposed cuts to Medicaid, as these same benefits need to be increased for hurricane victims.

Baby steps already taken
The first step towards cutting more spending has already been taken. On September 30, President Bush signed the first continuing resolution (CR) of fiscal year (FY) 2006. The beginning of the fiscal year was Saturday, October 1, and a CR is needed to keep agencies running until final appropriations can be approved. CRs are not uncommon, but the approach Congress is taking this year represents the first steps toward deeper cuts in spending. The CR funds programs at the lowest of three levels: the House level, the Senate level, or last year’s (FY 2005) level. That means appropriators went through the bills program by program -- not agency by agency.
-- and took the lowest level for each program. If a program was slated for elimination in FY 2006, the program is funded at FY 2005 levels for now. This leaves student aid with a $50 cut to the Pell Grant maximum, and no increases in other programs. Overall funding for education was cut $768 million below last year, and $410 million below the president’s request. This CR will run until November 18. There is talk about the second CR running for a year, and most likely an additional across-the-board cut.

While both the House and Senate have new appropriations committee chairmen who would like to complete all their bills the first year, the extraordinary circumstances of 2005 could change their minds.

The schedule

The next steps in cutting spending will take place later in October. Before Hurricane Katrina hit, Congress was poised to complete action on $35 billion in deficit reduction from cuts to mandatory programs, a process called budget reconciliation. The new deadline for the House committees to submit their reconciliation legislation has been moved to October 19. The Senate Health, Education, Labor and Pensions Committee has set October 18 for its mark-up of student loan and pensions savings, and the Senate Budget Committee is scheduled to mark-up all deficit reduction legislation on October 26.

Aside from additional cuts that may be required through these new proposals, the education committees have already done most of their work. The House education committee passed its version of the Higher Education Act in July, which includes $8.6 billion in cuts to student loans. At the end of August, Chairman John Boehner (R-Ohio) was asked to hold a second mark-up to find an additional $2.4 billion in savings from student loans, for a total of $11 billion. This mark-up is expected to take place before the October deadline.

Meanwhile, the Senate education committee marked up its HEA bill on September 8, which reportedly contains more savings from student loans than the $7 billion it was required to find. The Senate committee will hold a second mark-up to make savings from the student loan programs count for reconciliation on October 18. While the Congressional Budget Office has yet to score the Senate HEA bill, the committee reported it had found $7 billion in savings for deficit reduction, $5 billion for additional grant aid to Pell Grant recipients, and an additional $6 billion to help pay for hurricane relief.

Although October and November deadlines are set for the next moves on the budget process, it is likely that Congress will be in session until Christmas Eve to finalize these bills.

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Hurricane Bills Hurried through Congress

To date, fifty bills having to do with Hurricane Katrina have been introduced in Congress. Several relating to higher education have already become law; others are languishing, or will not be considered because of their substantial cost or controversial policy implications.

In law

Rep. Ric Keller (R-Fla.), an intrepid supporter of the Pell Grant program who is familiar with hurricane disasters, shepherded H.R. 3169, the Pell Grant Hurricane and Disaster Relief Act, through Congress. The bill provides that college students whose education is disrupted by a major disaster do not have to return their Pell Grants. Sen. Martinez (R-Fla.) introduced S. 1628, a nearly identical bill, in the Senate. H.R. 3169 was signed by the president on September 21.

Rep. Bobby Jindal (R-La.) has offered several bills directed at disaster relief for students. H.R. 3668, a bill that provides that other Title IV grants (such as SEOG) do not have to be repaid by disaster-affected students, became law on September 21.

On September 22, Jindal introduced H.R. 3863 with the bipartisan support of the leadership of the House Education and the Workforce Committee. It allows the secretary of education to waive matching and reallocation rules for the campus-based aid programs. It would provide up to $36 million in federal financial aid to students affected by Hurricanes Katrina and Rita. It was signed into law on October 7.

Introduced

Jindal has also authored a more comprehensive bill, the Hurricane Regulatory Relief Act, with support of the education committee leadership. The bill would provide students and affected schools in the Gulf Region forgiveness from repayment on student loans and aid that was received for this year before the hurricane hit. It would also provide six months of student loan deferments for borrowers who were affected by the hurricane.

However, the bill uses hurricane relief as a mechanism for placing transfer-of-credit rules on all colleges. The provision was watered down from the worst seen in the earliest HEA reauthorization proposals, but it is nonetheless a major policy change. It should be part of HEA reauthorization and not pushed through as hurricane relief.

On October 5, Rep. George Miller (D-Calif.) introduced a comprehensive bill that would provide $4.6 billion over five years to help students and colleges affected by the two hurricanes to rebuild. In addition to providing $1.6 billion in student loan forgiveness, the bill would also allow returning and future students who attend the affected colleges up to $10,000 in student loan forgiveness once they graduate (forgiving $2,500 for each year in college). The bill also provides $3 billion for institutional recovery, including provisions for student recruitment and faculty and staff retention.

S. 1715, a comprehensive bill relating to education recovery in the Gulf states, was introduced in early September by Health, Education, Labor and Pensions Chair Mike Enzi (R-Wyo.) and Ranking Minority Member Edward Kennedy (D-Mass.). The disaster relief legislation covers early childhood, K-12, higher education, IDEA, and vocational education. (See WIR, 9/20/05, for details on the higher education provisions.) It has been on the Senate calendar since September 19.

A bill by Sen. Mary Landrieu (D-La.) covers a wide range of areas adversely affected by Hurricane Katrina, including provisions on student aid and grants for rebuilding colleges. The Louisiana Katrina Reconstruction Act (S. 1765) was introduced on September 22. Its $200 billion price tag sent shock waves through fiscal conservatives, making it unlikely that the entire package will pass. But the bill does include a comprehensive $5 billion package to help colleges rebuild their facilities, retain their faculty, and attract students.

Tax legislation

The House and Senate approved a hurricane relief tax bill (H.R. 3768) worth $6.1 billion over 10 years, aimed at helping provide hurricane victims access to cash, housing, and employment. President Bush signed the bill into law on September 23. H.R. 3768 contains provisions that ease or waive restrictions for charitable contributions, increase charity-related mileage deductions, and alleviate some of the burden of rebuilding homes by relaxing mortgage revenue bond rules.

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IRS Issues Guidance for Nonprofits

The IRS has issued proposed regulations clarifying the many requirements for tax-exempt status under section 501(c)3 of the tax code. The same document also contains provisions clarifying the relationship between tax-exempt status and the imposition of excise taxes under intermediate sanctions regulations. None of the proposed regulations would alter current law. They do, however, offer numerous examples in an effort to clarify current law. This will be significant as the Senate continues to focus on nonprofit governance reform.

Senate Finance Chairman Charles Grassley (R-Iowa) has said that he prefers to work closely with the IRS to enforce current law, before enacting new laws on nonprofit governance. The proposed regulations reflect those ongoing efforts.

Current 501(c)3 requirements as well as the intermediate sanctions regulations specify rules for private versus public benefits, and define excess benefits transfers. Since several years have passed since intermediate sanctions became law, and in light of increased scrutiny on the governance of nonprofits, the IRS is able to offer extensive examples. They demonstrate, for example, that prohibited private benefits clearly involve both economic and non-economic benefits. In addition, prohibited private benefits may arise regardless of whether payments made to private interests are reasonable or excessive.

For a full list of the examples and the proposed regulations, go to [http://www.IRS.gov](http://www.IRS.gov) and click on the “charities & nonprofits” icon.

“Learn and Serve America” Offers Grants for Service-Learning

Institutional grants for 2006 are available from “Learn and Serve America,” a program of the Corporation for National and Community Service. It makes grants to schools, colleges, and nonprofit groups to support efforts to engage students in community service linked to academic achievement and the development of civic skills. This approach to education, called “service-learning,” improves communities while preparing young people for a lifetime of responsible citizenship.

Grants are available in the 2006 award cycle for higher education institutions; consortia of such institutions; or partnerships of higher education institutions and other public or private nonprofits. Grants range up to $400,000 for consortia, and up to $125,000 for individual institutions.

For more information, contact:

- Listing of State Education Agencies—[http://www.learnandserve.org/about/school_communitybased/state_education_agencies.html](http://www.learnandserve.org/about/school_communitybased/state_education_agencies.html)