Congress Gives HEA New Lease on Life

The Higher Education Act (HEA) was extended through FY 2005 last week, shortly before Congress recessed for the election. The House passed the measure on October 6, and the bill passed the Senate on October 9. If no HEA reauthorization bill is completed by September 30, Congress would need to extend the HEA again.

9.5 percent solution

In related legislation, the House voted 414–0 to approve H.R. 5186, the "Taxpayer-Teacher Protection Act," on October 7. The bill closes loopholes that had allowed lenders to receive a 9.5 percent guaranteed return on loans financed with certain tax-exempt bonds. Congress passed legislation to eliminate this benefit in 1993, but grandfathered in the bonds issued prior to its enactment.

Since then, several financial mechanisms such as refinancing were used to extend the life of these bonds and create new tax-exempt bonds. H.R. 5186 eliminates most of these practices, but does allow loans made from the proceeds of existing tax-exempt bonds to retain the 9.5 percent guarantee. The Senate approved the legislation on October 9.

Although they voted unanimously for the bill, House Democrats expressed concern that the bill does not go far enough. They argued that recycling these loans amounts to leaving a 40 percent loophole. Senator Edward Kennedy (D-Mass), ranking minority member of the Health, Education, Labor and Pensions Committee, echoed the same concern when the bill was reviewed in the Senate.

Republicans have countered that their action closes all but a smaller percentage of eligible loans, and that to eliminate them retrospectively would harm nonprofit student aid providers. They point to the opposition from nonprofit lenders, such as California's Chela Education Financing and Iowa Student Loans. These agencies contend that the 9.5 percent subsidy was legal under the Clinton administration and had to be used for borrower benefits, such as lower interest rates and debt forgiveness.

The Democrats were also less than happy that the legislation was not permanent. H.R. 5186 applies to loans and proceeds from pre-1993 tax-exempt bonds financed, refinanced, sold, or transferred after September 30, 2004, and before January 1, 2006. Republicans argue that a permanent fix will be made during a reauthorization of the HEA in 2005, and the savings used to expand college access for low- and middle-income students.

Savings from the recently passed bill will be used to provide increased loan forgiveness for math, science, and special education teachers. Currently, borrowers who have taught in low income schools for five years can receive $5,000 worth of loan forgiveness. Under the new legislation, teachers in the specified fields can receive up to $17,500 in loan forgiveness.

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The Department of Education’s National Center for Education Statistics (NCES) is studying the feasibility of creating a national data system based on individual student records. This would be a radical departure from the current system, in which information about individual students is aggregated at the institutional level and then sent to the department.

The proposed system reflects a movement at the state level to track students’ educational careers through massive databases run by the state government. Many states have set up such systems, but private colleges do not participate as fully as public college systems, if at all. Their reasons for remaining somewhat aloof include the Federal Educational Rights Privacy Act (FERPA), a belief that student records should not be handed over to outside entities, concern about “control creep” by state governments, and the reporting burden placed on institutions and their staff.

At one level, the movement to create a national student record data system represents a step forward in the larger debate over public accountability. The federal government is particularly interested in how students attend and complete college. Since many undergraduates now attend more than one college before graduation, a student tracking system could prove the most reliable way to follow their academic careers and determine a more accurate graduation and completion rate.

The movement to create this system now is being promoted by the State Higher Education Executive Officers (SHEEO) and the four-year public colleges, represented by the American Association of State Colleges and Universities (AASCU). Both groups asked Congress over the summer to support exploring this concept. AASCU has been supported in this effort by the American Council on Education. C. Dennis Carroll, the associate commissioner of NCES in charge of postsecondary education statistics, is also promoting the idea.

NAICU’s concerns
NAICU has several concerns with the concept and the way in which the feasibility study is being approached. First, we believe that any debate over the creation of this system has to be centered around privacy questions and institutional obligations to students, as well as identity theft.

Secondly, its promoters are convinced that such a system will prove more efficient for colleges (because the department will aggregate many of the final reports). NAICU believes that these difficult operational questions need to be answered in detail, so that colleges are not forced to accept a new system that is impossible to manage without a huge investment in people and technology.

The feasibility study is moving with lightening speed. There will be three technical review panels: one made up of institutional researchers and registrars, one of representatives of state systems, and one of national associations and stakeholders. The panel meetings will start at the end of October and will conclude by November 10. NAICU is nominating representatives from private colleges to co-chair and serve on the panels, to ensure that they look at the broad public policy questions, as well as the technical issues.

It is somewhat ironic that NAICU is the association to approach this idea with the greatest caution. Current data proves that private colleges graduate students faster and in greater numbers than public colleges, even when controlling for risk factors such as age, family obligations, income levels, or academic preparation. The data that such a system would produce would further demonstrate the value of choosing to attend a private college.

It is not clear how much support exists in Congress for such a system. While graduation rates are emerging as an important issue in the current reauthorization of the Higher Education Act, several members have expressed their own concerns about student privacy. NAICU will be working on Capitol Hill to assess the political interest in this proposal.

The Department of Education plans to produce a report to Congress by February 2005. It is anticipated that their recommendations will include proposals for amending FERPA to allow for such a system.

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The charitable tax bills that passed the House and the Senate by overwhelming bipartisan margins last year remained incomplete as Congress departed for the elections. Despite nine attempts to move the bills into a House-Senate conference, and additional efforts to tack the measure onto corporate tax legislation, minority objections prevented any movement.

Senate Democrats blocked the bill from going to conference on each attempt. They argued that they were not included in discussions about the set-up of the conference, although Republicans said they had assured the Democratic leadership that both parties would fully participate in any conference discussions. Some feel that allowing the bill to become law would have been a personal legislative victory for President Bush - something his opponents would not allow in the current political atmosphere.

Year long efforts by the higher ed and charitable community to advance the legislation may have been almost too successful. It's possible that the widespread support for the bill only gave Democrats more ammunition for obstructing its passage. While it's unlikely there will be any additional opportunities during the lame duck session to move the bill to conference, House and Senate sponsors of the bill remain committed to reintroducing it in the 109th Congress.

For more information, contact Karin Johns at NAICU, (202) 785-8866 or karin@naicu.edu.

House and Senate conferees on the Department of Homeland Security (DHS) appropriations bill have agreed to keep a Senate amendment approving $25 million in assistance to nonprofits at high risk of international terrorist attacks. The president is expected to sign the bill in the near future.

The assistance is intended for basic security enhancements to protect Americans from lethal attacks. Funds can be used to install equipment such as concrete barriers, blast-proof doors, Mylar window coatings, and hardened parking lot gates, as well as associated training. The assistance is not intended to be used against neighborhood crime or other nonterrorist threats. Nonprofits will apply to DHS for assistance, and the secretary of DHS will determine funding priorities based on risk assessment and need.

A nonprofit coalition that included NAICU, the United Jewish Communities, the United Way of America, and others provided compelling reasons for dedicating homeland security funds to nonprofits. The coalition emphasized the health, social, community, educational, and cultural services nonprofits provide to millions of Americans every day.

If nonprofits were forced to cover the entire cost of security measures, they would have less money available for vital human services, including capacity to respond to disasters. Intelligence reports and the 9-11 Commission Report indicate that nonprofits are among the institutions at higher risk, and their security needs have gone largely unmet.

The provision was adopted in the Senate version of the FY 2005 DHS appropriations bill and maintained in the final conference report. It is the only one of more than 1,000 new spending provisions to survive the final conference—a clear victory for the higher education and larger nonprofit communities.

For more information, contact Karin Johns at NAICU, (202) 785-8866 or karin@naicu.edu.
The Senate Foreign Relations Committee held a hearing October 6 about the impact on foreign students and researchers of new visa requirements, which were adopted after the September 11 attacks in the interest of national security. The hearing was called to examine how the security purposes of those changes are balanced with U.S. goals for foreign students. The committee wanted to determine whether changes in visa policy procedures are unnecessarily limiting or deterring students, researchers, and official visitors from coming to U.S. colleges and universities.

Witnesses testifying on the contributions of international students, faculty, and visiting scholars at their institutions included Martin C. Jischke, president of Purdue University; Adam W. Herbert, president of Indiana University; and Dan Mote, Jr., president of the University of Maryland, College Park. Other witnesses talked about the impact of new visa policies on their institutions and international student populations since September 11.

At the national level, colleges and universities saw a declining level of increases in international student enrollment in the first two years following September 11. In the 2002-03 academic year, however, growth came to a halt. Many witnesses cited the Council of Graduate Schools survey, which showed a 28 percent decline in international graduate applications and an 18 percent corresponding decline in international graduate admissions nationwide for fall 2004.

For additional information, contact Karin Johns at NAICU at (202) 785-8866, or karin@naicu.edu.

The National Defense Authorization Act for Fiscal Year 2005 (H.R. 4200), which passed Congress during the Columbus Day weekend, contains language that broadens the reach of the Solomon amendment. Currently, the Solomon amendment prohibits colleges from receiving funds from the Departments of Labor, Defense, Education, Health and Human Services, and Homeland Security if they don’t allow Reserve Officer Training Corps (ROTC) or military recruiting on campus. H.R. 4200 would add to the list funds from the Department of Transportation, the National Nuclear Security Administration of the Department of Energy, and the Central Intelligence Agency.

The new legislation specifies that military recruiters must be treated “in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer.” This clarifies Department of Defense regulations brought to light by FAIR v. Donald Rumsfeld, which was heard in New Jersey district court. While nearly all of the plaintiff’s arguments were dismissed, the court did not find that the regulations clearly called for equal treatment.

H.R. 4200 also includes language to clarify that federal student financial aid and related funds going to institutions are not included in the funding restriction.

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NPEC to Send Institutions “Data Feedback” Reports

During the week of October 18, the National Postsecondary Education Cooperative (NPEC) will be mailing “data feedback” reports to the presidents of all postsecondary institutions in the United States.

NPEC started the data feedback project to give institutions a context for examining the data they submit to the National Center for Education Statistics (NCES) through the Integrated Postsecondary Education Data System (IPEDS). NPEC’s goal for the project is “to produce a report that is useful to institutional executives and that may help improve the quality and comparability of IPEDS data.”

What it includes

The NPEC report will provide graphical comparisons between an institution and a comparison group. Items being compared include:

- Core revenues per FTE student, by revenue source: Fiscal year 2003
- Core expenses per FTE student, by function: Fiscal year 2003
- Percentage distribution of scholarship and fellowship expenditures, by type of award: Fiscal year 2003
- Percentage of first-time, full-time degree/certificate-seeking undergraduates returning from fall 2002 to fall 2003, and percent of the 1997 (2000) cohort who completed a degree/certificate or who transferred out
- Instructional staff: Fall 2003
- Average full-time instructional faculty salaries for equated nine-month contracts by selected academic ranks and gender: Academic year 2003-2004

Comparison characteristics

According to NPEC, comparison groups were included in the IPEDS Data Feedback Report to provide a context for evaluating and interpreting each institution’s statistics. These groups were identified by NPEC on the basis of several selected institutional characteristics. The characteristics that were used for a specific comparison group are outlined in the report before each list of comparison institutions. These characteristics may include one or more of the following:

- Institutional sector (public; private nonprofit; and private for-profit)
- Highest degree awarded (four-year, two-year, and less than two-year)
- Degree-granting or non-degree-granting
- Mission (by Carnegie classification)
- Research expenditures ($100 million or less, and more than $100 million)
- Largest program area
- Size based on various categories of student enrollment
- Program year or academic year reporting
- Number of full-time employees (less than 15, and 15 or more)
- Geographic region

Peer comparisons

Many institutions have a specific group or a set of groups of peer institutions that are used for comparative purposes. NCES has developed the Executive Peer Tool so that every institution can select its own peer institutions and easily replicate the figures and access the data in the IPEDS Data Feedback Report. This web-based tool is available at http://nces.ed.gov/ipedspsa/expt. Please note that this tool and all of the IPEDS data that were used in the reports are publicly available.

A copy of each institution’s report was emailed to its IPEDS contact person on October 13, and a hard copy will follow to the presidents or CEOs of post-secondary institutions via U.S. mail. NPEC will not distribute the reports to other individuals or agencies.

NPEC invites feedback on the Data Feedback Report. Comments can be sent to datafeedback@nces.ed.gov. Comments and suggestions for improvement on the following questions are specifically sought:

- Is the report useful?
- How was the report useful?
- Would you like to receive this same type of report again?
- What indicators would you like to see in future reports?
- How could the report be improved?

To help summarize comments on the report, NPEC asks that

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you provide the following demographic information along with your suggestions:
• Which organizational sector do you represent (public, private nonprofit, or private for-profit; less than two-year, two-year, or four-year)?
• What is your position? (IPEDS key holder, institutional researcher, institutional evaluation or planning officer, institutional chief executive officer, system or state IPEDS coordinator, or other)

NPEC is a voluntary partnership of postsecondary institutions, associations, government agencies, and organizations. NPEC receives funding from the National Center for Education Statistics of the U.S. Department of Education.

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