Student Loan Sunshine Bill
Gets Nearly Unanimous Approval

By a vote of 414 to 3, the House has passed H.R. 890, the bipartisan "Student Loan Sunshine Act." H.R. 890 would "establish requirements for lenders and institutions of higher education in order to protect students and other borrowers receiving educational loans."

The bill includes a code of conduct for institutions that would apply to nearly every college and university in the country, whether or not they participate in a Title IV program, because the code applies to private educational loans as well as the federal loan program. The code extends to officers, trustees, and employees, as well as agents of the institution – such as alumni associations and booster clubs. The bill bans all but de minimus gifts to those same individuals. (There is some question as to whether this ban applies to the institution itself.) Those covered under the code of conduct also are prohibited from serving on an advisory board of a lender. Institutions would not be able to enter into any educational loan arrangements with any lender in which the institution would receive any "material benefit." Institutions would be required to comply with the requirements of the bill before they could receive any federal funds or assistance.

The bill also requires reporting from all "covered institutions" – meaning all higher education institutions that participate in any federal program. Most of the reporting requirements apply only to institutions that use preferred lender lists, and require that very specific information be made available about loans from lenders on the list, as well as information on "any philanthropic contributions made by the lender[s] to the covered institution."

The bill was passed a day in advance of a hearing of the Education and Labor Committee. (See related article in this issue.) After negotiating details with Ranking Minority Member Howard "Buck" McKeon (R-Calif.), Education Chair George Miller (D-Calif.) quickly brought the bill to the House floor and was able to have it considered under the expedited "suspension of the rules" process, which does not allow for amendments.

House staff have assured NAICU that they are expecting to amend the bill in conference with the Senate, but it is unclear what items might be open to change. NAICU is particularly concerned about possible unintended consequences of the bill. These could include a lessened availability of capital, a negative impact on charitable giving, and implications for college and university trustees who also serve on bank boards or are employed by lenders who issue educational loans. Though it has had legislation pending in this area since last December, the Senate has not yet indicated any interest in passing legislation separately from the Higher Education Act reauthorization – which it hopes to push through this summer.

For more information, contact Maureen Budetti, maureen@naicu.edu
Secretary Spellings Gets Chilly Reception at House Hearing

A hearing to examine the Department of Education's oversight of federal student loan programs and the Reading First program on May 10 quickly turned combative as House Education and Labor Committee Chair George Miller (D-Calif.) outlined a litany of "troubling revelations about unethical practices in the student loan industry," and conflicts of interest and "potential criminal misconduct by Reading First officials." Throughout the questioning, Miller continued to call Department of Education Secretary Margaret Spellings to account for the Department's lack of oversight of these programs.

In Spellings' defense, Ranking Minority Member Howard "Buck" McKeon (D-Calif.) focused on the progress the department has made since the late 1990s, when the department failed a series of internal audits. While he cautioned committee members not to harm the programs through "overzealous investigations" and "endless, partisan witch hunts," he expressed support for the "Student Loan Sunshine Act," H.R. 890. (See separate article.)

Although the hearing was also to look at the Reading First program, student loan issues clearly were foremost in the minds of the committee members, and attracted a large press contingent. In responding to questions from Democrats, Spellings repeatedly defended the Department's past actions, arguing that a high legal hurdle (quid pro quo) limited the department's ability to go after lender inducements to colleges. She did not, however, defend the loan program itself, saying the financial aid system was "redundant and broken," and fraught with cost, access, and transparency problems. At one point, a frustrated Miller acknowledged that legal action might not have been possible, but asked why the secretary didn't at least sound an alert about what was going on. Spellings responded that the law and regulations needed to be changed before there could be enforcement.

Calling herself one of the most active secretaries of education, Spellings said she appointed an internal task force following the recent, failed negotiated rulemaking panel on federal loans. She reported that just the day before the hearing the task force had sent her recommendations that will be incorporated into an expedited regulatory process. Spellings announced that the "Notice of Proposed Rulemaking" would be published by the end of May. It is expected to contain requirements for choice, competition, and transparency in the loan industry – including a requirement for institutions to explain why they have put specific lenders on their preferred lender list.

Spellings managed to inject broader administration goals into her answers to member questions. For example, in responding to Rep. Michael Castle's (R-Del.) question about the level of special allowance payments paid banks and increasing college costs, she again stated the need for a better financial aid system, more transparency, an IPEDS data base, and for colleges to provide "value-added" information and details on graduates' employment. She also noted the Department is midway in a process to produce a new conceptual design for the federal financial aid system.

At the conclusion of the hearing, Rep. Tim Bishop (D-N.Y.) accused the Department of using the negotiated rulemaking process to achieve its own goals on transfer of credit, dismantling the Perkins Loan Program, and applying uniform standards to all college students. He questioned why Spellings would go ahead with these ideas when Congress was considering these very issues in reauthorization of the Higher Education Act. Somewhat defiantly, Spellings replied that Congress can trump what is done in negotiated rulemaking, but argued that she felt it important to go forward in the direction recommended by the commission she established. She emphasized that the process will continue in the absence of statute, and until such time as "Congress imposes its will."

For more information, contact Maureen Budetti, maureen@naicu.edu
Department of Defense Issues Proposed Regulations Dealing with Solomon Amendment

The Department of Defense has published proposed regulations to implement changes to the Solomon Amendment dealing with access to campuses and students by military recruiters.

The Solomon amendment provides that federal funding to an institution of higher education may be withdrawn if the institution has a policy or practice that prohibits military recruiting on campus, prohibits access to student directory information for the same purpose, or maintains an anti-ROTC policy. The 2004 amendments to the law (see WIR, 10/12/04) specify 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."

The proposed regulations published on May 7 define "equal in quality and scope" to mean "the same access to campus and students on campus provided to the nonmilitary recruiter receiving the most favorable access." The proposals include specific provisions on dissemination of military visit information, scheduling of visits, recruiting locations, enforcement of policies related to the recruitment "climate," and student participation in recruiting activities.

The 2004 amendments also clarified that federal student financial aid and related funds going to institutions are not included in the funding restriction. The preamble to the proposed regulations specifically identifies SEOG, work-study, Perkins loans, Pell grants, and guaranteed and direct federal loans as programs that are not included. Also part of the preamble is a clarification of the application of the Family Educational Rights and Privacy Act (FERPA) to the provision of student information to military recruiters.

Briefly, the FERPA clarification states that if a student has stated in writing that "directory information" not be released to any third party, then this information will not be provided to military recruiters. However, if an institution has a policy of not releasing any (or a portion of) the student-recruiting information included in the Solomon amendment as part of its FERPA directory information policy, it must still provide military recruiters with the requested information for all students who have not exercised their general right to "opt-out" under FERPA. The institution must comply with such a request from military recruiters even if they would not make the information available to the general public. The preamble also notes that "a special opportunity for a student to decline the release of student-recruiting information is not necessary or appropriate."

The proposed regulations may be found at:

The public comment period on the proposals will close on July 6, 2007.

For more information, contact Susan Hattan, susan@naicu.edu

Troublesome Regulation Coming from Homeland Security

NAICU and several other associations sent a joint letter to the Department of Homeland Security (DHS) on May 9, warning of the unintended and adverse consequences that new chemical risk assessment requirements will have on colleges and universities.

The letter notes that the recent Interim Final Regulation "imposes a multi-step process intended to give DHS information it needs to determine which chemical facilities present what level of risk from terrorist concerns." In the letter, the associations urged the department to
consider the differences between colleges and chemical plants, and to mitigate the effects of the regulation. The new regulation was published on April 9, and would be implemented in 180 days.

DHS plans a multi-phase, comprehensive implementation strategy. The first step requires that any "chemical facility" must determine whether they possess any of 342 listed chemicals. For some of those chemicals, there is a threshold for reporting. However, for 104 of the chemicals, any amount must be reported. If a facility has chemicals to be reported, it must complete a more detailed analysis, called a "Top Screen." That analysis will be used by DHS to assess relative risk of facilities, and to prepare site security plans for them, starting with those at highest risk.

The new regulations define "chemical facility" as "any establishment that possesses or plans to possess, at any relevant point in time, a quantity of a chemical substance determined by the Secretary to be potentially dangerous or that meets other risk-related criteria identified by the Department." Because nearly all colleges and universities fall within the definition, they will all have to complete at least the first step in this risk-assessment and preparedness strategy.

Given that they are likely to have some of the 342 chemicals, colleges and universities will have to search thousands of classrooms and laboratories to inventory their presence. Many colleges and universities already report hazardous chemicals through EPA and OSHA regulations. The associations are encouraging DHS to give special consideration to colleges and universities because, as these other regulatory agencies have recognized, they differ in significant ways from a true chemical facility. So far DHS has not been sympathetic to that argument.

Clearly, if not changed, this fast-track regulation will be time-consuming and costly for colleges and universities. This is especially troublesome given that the institution could face significant civil and criminal sanctions, including prison terms, for submitting incorrect information.

For more information, contact Maureen Budetti, maureen@naicu.edu

Department of Education Announces New FIPSE Grant Opportunities

The Department of Education has announced it is taking applications for new awards for FY 2007 in the Fund for the Improvement of Postsecondary Education (FIPSE) Comprehensive Program. The following excerpted information about the grant opportunity is from the May 14 Federal Register, and is available on line at:
[http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-2341.pdf]

Purpose of Program: The Comprehensive Program supports innovative grants and cooperative agreements to improve postsecondary education. It supports reforms, innovations, and significant improvements of postsecondary education that respond to problems of national significance and serve as national models.

Invitational Priorities: For FY 2007 these priorities are invitational priorities.

- **Invitational Priority 1**: Projects encouraging higher levels of access, persistence, and completion of graduation requirements for higher education.
- **Invitational Priority 2**: Projects aligning curriculum on a state or multi-state level between high schools and colleges, and between two-year and four-year postsecondary programs, to ensure continuing academic progress and transferability of credits.
- **Invitational Priority 3**: Projects improving the mathematics and science proficiency of postsecondary students including preservice math and science teachers.
• **Invitational Priority 4**: Projects to enable postsecondary students, including preservice teachers, to achieve proficiency or advanced proficiency or postsecondary institutions to develop programs in one or more of the less commonly taught languages: Arabic, Chinese, Korean, Japanese, Russian, and languages in the Indic, Iranian, and Turkic language families.

• **Invitational Priority 5**: Projects designed to disseminate successful strategies to achieve the goals of any of the above invitational priorities serving postsecondary education.

**Dates:**


**Eligible Applicants:** Institutions of higher education (IHEs) or combinations of those institutions and other public and private nonprofit institutions and agencies.

**Estimated Available Funds:** $3,400,000.

**Estimated Range of Awards:** $100,000-$250,000 per year.

**Estimated Average Size of Awards:** $160,000 per year.

**Maximum Award:** We will reject any application that proposes a budget exceeding $250,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the Federal Register.

**Estimated Number of Awards:** 16-20.

**Project Period:** Up to 36 months

---

**Guide to Congress Available Free to Members**

NAICU has a limited number of copies remaining of the Guide to Congress for the 110th Congress, available free of charge to NAICU members as long as supply lasts. This compact book lists all members of the House and Senate with photo, brief bio information, and contact information for each. It also includes all House and Senate committee assignments, executive and judicial branch listings, congressional district maps for each state, as well as information on congressional terminology, procedures, and calendars.

To request a copy, e-mail Roland King, NAICU vice president for public affairs, at roland@naicu.edu. Be sure to include the full mailing address to which the guide should be sent.

---

**Week in Review Stories Available on the Web**

Beginning with the May 8 issue, *Week in Review* stories are now being posted on the fully-redesigned NAICU Web site at the same time they are sent via e-mail to our electronic subscribers. If you’d like to keep up on the latest developments in higher education policy days before the print version of *Week in Review* hits your mailbox, go to www.naicu.edu. The stories – each identified as “NAICU Washington Update” – will appear on the home page immediately upon being posted, and also will show up in the Web site’s News Room.