President Sends Budget to Congress Kicking off FY 2015 Budgeting Process

The president’s FY 2015 budget request, sent to Congress on March 4, includes no surprises for student aid funding and offers several familiar tax proposals. While the White House and Congressional leaders will be working on budget matters throughout the spring, NAICU expects to see education funding bills sometime in the summer.

Overall, on student aid, the president’s budget proposes $29 billion to fully fund the scheduled $100 increase in the Pell Grant maximum, to $5,830, and level funds the other student aid programs. The president’s budget also continues the national conversation about quality higher education by proposing reform programs to implement the College Value and Affordability agenda he has been advocating for since August, including a proposal to provide $10 million for his controversial college rating metric.

Because the Bipartisan Budget Act that was passed in January sets a tight limit on discretionary spending, the president’s budget for higher education includes new proposals on the mandatory side of the budget, which would come out of automatic spending not from appropriations. The Administration is able to make these proposals for mandatory spending as long as the president balances the offsets anywhere else in his spending plan. This is different than the section-by-section budgeting rules Congress has to follow; making it less likely the president’s ideas could be paid for.

Many parts of the budget, including many of the proposed higher education reforms and specific changes to the student aid programs, would need to go through a separate legislative process in Congress. Given the tense relationship between Congress and the White House, many of the president’s proposals are a long way from being given a serious audience on Capitol Hill.

Highlights of President Obama’s FY 2015 Budget

- **College Opportunity and Graduation Bonus:** Provides $7 billion over 10 years in mandatory funds to reward institutions that enroll and graduate a high percentage of Pell Grant recipients. Bonuses would be tiered to $1,000 per Pell Grant graduate at 4-year institutions; $700 per Pell Grant graduate at 2-year institutions and $350 per Pell Grant graduate at less than 2-year institutions. Institutions could use the funds to award additional need-based aid, enhance academic and student support services, improve student learning outcomes, reduce costs, accelerate learning, and other innovations.

- **Campus-Based Aid Programs:** Revises the allocation formulas for SEOG and Federal Work Study to reward institutions that provide high-quality education to low-income students at a reasonable price.
Perkins Loans would be expanded to $8.5 billion in new loan volume, and would function like a second direct loan program. Lending authority would be allocated in a similar manner to the new allocation for SEOG and FWS, while savings from reforming the program would be reinvested into the Pell Grant program.

- **College Rating System:** Provides $10 million to develop and refine the president’s proposed college rating system. The budget includes these funds under the authority of the Government Performance and Results Act (GPRA), and HEA program evaluation. (GPRA was originally enacted in 1993 to require federal agencies to engage in project management activities for the programs they run.) In this budget line, $52 million will be provided overall for pilot and demonstration programs in student aid, postsecondary evaluations, performance measure improvements, and the development and refinement of the college ratings system.

- **State Higher Ed Performance Fund:** Provides $4 billion in mandatory funds for state public higher education reform through competitive grants. To be eligible, states would have to implement policy and funding reforms to improve college performance, such as maintaining state expenditures on higher education, ensuring a seamless transition into higher education, establishing pathways to work, allocating state financial aid based on need, and providing consumer information about the return on investment at colleges. States would be required to match federal dollars one-to-one, and awards would be allocated to institutions within the state based on a performance formula.

- **College Success Grants:** Provides $75 million to target additional aid to minority-serving institutions with the goal of increasing completion for Pell Grant recipients by implementing sustainable strategies, improving technology, lowering cost, improving outcomes, and other measures.

- **First in the World:** Provides $100 million for the First in the World competitive grant program, allocated through FIPSE, for institutions to develop innovative strategies and practices that improve college completion and make college more affordable for low-income students.

- **Pell Grant Eligibility:** The budget proposes to “strengthen academic progress requirements to encourage students to complete their studies on time.” There is no additional information on this proposal right now, but satisfactory academic progress requirements were already strengthened through regulation in 2010.

- **“Ability to Benefit (ATB):”** Reinstates ATB eligibility for Pell Grants only for adult students who are dually-enrolled in adult education and postsecondary education as part of an approved career pathway to work. This was proposed by Sen. Patty Murray (D-WA) in the appropriations process last year, and reflects a specific community college program in Washington State.

- **Expand Pay As You Earn:** Proposes to lower student debt burden by expanding the “Pay As You Earn” (PAYE) student loan repayment plan to all borrowers, regardless of when they borrowed. With the goal of protecting against institutions driving up student debt and to reduce program complexity for borrowers, PAYE would become the only income-based repayment plan after July 1, 2015. Reforms would also include eliminating the standard cap so that high-income, high-balance borrowers do not benefit excessively; ensuring married borrowers pay appropriately based on combined AGI, capping public sector loan forgiveness, establishing a 25-year forgiveness period, and capping interest that can accrue.

**Other Notable Items**

- **$1.4 billion for Student Aid Administration:** This would be a $280 million increase over last year, $269 million of which would cover the move of loan servicing costs from the mandatory budget to the discretionary budget.

- **Teacher Quality Partnership Grants:** Funding would be eliminated and the program would be incorporated into ESEA.

- **International Education Domestic Programs:** Funding would be increased by $4 million, to $69 million.
Tax Provisions

- **Charitable Deduction Cap:** The Administration has, once again, included a proposal to limit the value of charitable contributions. The budget would impose a 28% cap on all deductions, including the charitable deduction. This would affect higher income givers, impacting single taxpayers earning over $186,350 and married/joint filers earning over $226,850. The proposal has been included in each of President Obama’s budget blueprints since he took office, and has not yet gained any traction in either the House or the Senate.

- **Other Tax Benefits:** The budget proposal would make the American Opportunity Tax Credit (AOTC) permanent (it is currently set to expire on December 31, 2017). The AOTC allows a partially-refundable $2,500 annual tuition tax credit. The president would make this a permanent benefit without substantial changes to the structure of the current credit or the current income limitations.

- **Loan Forgiveness:** The budget would also allow tax-free loan forgiveness on the income-based repayment of student loans after 10 years of repayment. Under current law, the federal government forgives the loan debt of certain borrowers who enter the public and nonprofit sectors after as few as 10 years. Other programs forgive loan debt after 20 or 25 years, but the amount is still subject to taxation. The president’s proposal would eliminate the taxes on the forgiven loan amount.

**Next Steps on Capitol Hill**

This budget proposal will have more impact on the Higher Education Act reauthorization discussions in the education committees than it will in the appropriations committees. The biggest challenge for student aid funding will be to maintain funding levels for Pell Grants, campus-based aid, TRIO, GEAR UP, and graduate programs, without being cut to pay for the additional funds needed in student aid administration to properly run the programs.

Because last year’s budget process went into January, the FY 2015 process is starting in March instead of February. House and Senate Budget Committee Chairmen Rep. Paul Ryan (R-WI) and Sen. Patty Murray (D-WA) agree that the total spending amount that was set in the January budget deal stands for their work in this cycle’s appropriations process.

House and Senate appropriators will start the hearing process once the president’s budget has been scored by the CBO. NAICU expects to see education spending bills in early summer.

For more information, contact Stephanie Giesecke, Stephanie@naicu.edu

**House Tax Reform Bill Would Eliminate Most Current Higher Ed Benefits**

Proposal stands little chance of advancing

The Chairman of the House Ways and Means Committee, Rep. Dave Camp (R-MI), introduced legislation on February 26, that would overhaul the current Internal Revenue Code by lowering tax rates and eliminating popular tax breaks. While the bill is quite controversial, politically hazardous, and is not expected to be considered in the House or Senate this year, it does reflect Chairman Camp’s commitment to introducing fundamental reform measures during his tenure as Ways and Means Chairman.

The Camp bill would reduce tax rates for both individuals and corporations, and would permit a new standard deduction that would allow many filers an easier tax filing process. However, the bill would also eliminate hundreds of popular tax breaks, including most of the current higher education benefits.

Specifically, the bill would eliminate Sec. 127 – employer-provided education assistance, the student loan interest deduction, the tuition deduction, the Lifetime Learning credit, tax forgiveness on loan repayment, and the tuition remission benefits available to college employees and their children under Sec. 117(d). The bill would maintain the current charitable deduction but only for giving that exceeds 2% of a taxpayer’s annual...
income. (See recent Forbes article for more detail on why the elimination of the higher education benefits would hurt a family’s ability to save and pay for college, and would hit the middle class the hardest.)

**Private Colleges and Universities Singled Out**

In a specific hit on private colleges, the bill would create a new excise tax on excess endowment funds at private colleges and universities only – not public colleges. The Camp draft indicates that a 1% excise tax would be applied to endowment funds not used for “educational” purposes at private institutions with endowments valued over $100,000 per full-time student. To add to the confusion, the Joint Committee on Taxation, which serves as the official revenue estimating committee for both House and Senate tax committees, describes the same provision as being applicable to private college endowment funds not used, or held in use, for an institution’s “exempt” purposes.

The bill does allow a modified, permanent American Opportunity Tax Credit (AOTC), which resembles legislation introduced by Ways and Means committee members Reps. Diane Black (R-TN) and Danny Davis (D-IL), H.R. 3393. While the AOTC would be made permanent, the income caps would be cut almost in half, reducing eligibility by nearly 50%. It would also only allow a benefit for the first four years of college, eliminating graduate assistance.

College tax breaks were not the only target in this bill. The legislation would eliminate personal exemptions, child care benefits, deductions for state and local taxes, retirement savings, and cut in half the current home mortgage interest deduction. In addition, the proposed hefty new taxes on banks and other financial institutions have resulted in a threat from Wall Street to cease political contributions immediately.

Given the extraordinary controversy in Congress on proceeding with tax reform, House and Senate leaders announced before the bill was even introduced that it would not be considered by either chamber this year. Senate Majority leader Mitch McConnell went so far as to say the bill had “no chance” of consideration in 2014.

This will be Chairman Camp’s final term leading the Ways and Means Committee. Rep. Paul Ryan (R-WI), who is expected to take over the helm in the next session of Congress, has not indicated that tax reform would be a top priority for the committee, nor has he endorsed the Camp bill. He has only indicated that the Camp Bill is courageous and will allow for a good conversation on tax reform.

For more information, contact Karin Johns, Karin@naicu.edu

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**New White House Task Force and Negotiated Rulemaking Group Focus on Campus Sexual Assault Policies**

Sexual assault policies and practices are receiving increased federal scrutiny. Shortly after the first negotiated rulemaking session dealing with the changes made to campus safety requirements by the Violence Against Women Act (VAWA), President Obama announced the formation of a White House Task Force to Protect Students from Sexual Assault.

The Task Force is operating under the leadership of the Office of the Vice President and the White House Council on Women and Girls. Those offices collaborated on the development of a report, “Rape and Sexual Assault: A Renewed Call to Action,” that details the incidence of rape on campus and the myriad of problems that stem from sexual violence.

The Task Force is comprised of representatives of a broad range of federal agencies, including the Departments of Justice, Health and Human Services, and Education. The group conducted listening sessions throughout the month of February and has also collected written comments. NAICU President David Warren participated in the February 21 listening session, and NAICU has joined the American Council on Education and several other higher education associations in submitting written comments to the Task Force. The Task Force is scheduled to release its final recommendations in mid- to late-April.

In addition, the negotiated rulemaking panel that is dealing with the changes made to campus safety requirements by VAWA, held its second set of meetings on February 24-25. The group discussed proposed new regulatory language dealing with definition of terms, the counting of crimes, campus policy statements,
prevention programs, and disciplinary proceedings. All documents related to this rulemaking are available here. The group will have its third and final session March 31-April 1.

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

Education Department Set to Enforce State Complaint Process Requirements

The Department of Education has issued a guidance letter reminding institutions that the 2010 program integrity regulations require states to have student complaint processes covering all institutions. Issuance of this letter signals that the Department is preparing to enforce this portion of the regulation.

Specifically, the regulation requires that each state must have "a process to review and appropriately act on complaints concerning the institution including enforcing applicable State laws." In addition, each institution must include in its student disclosures the contact information for the appropriate state agency or agencies where complaints may be made. An institution will be required to identify the state complaint process available to its students during the recertification process, or in response to an inquiry from the Department of Education.

The complaint process requirement is one of three state authorization requirements included in the 2010 regulations. The regulations also required that institutions be authorized by name to offer postsecondary education in a state and contained provisions related to authorization of distance education programs. The distance education portion of the regulation was struck down in court and is not currently in effect. The Department has initiated a new negotiated rulemaking process to address the issue. (See Negotiated Rulemaking Committee Begins Work on Multiple Regulatory Fronts for additional information.)

For additional background on the state authorization regulations, see these earlier stories in Washington Update:

- Final Program Integrity Regulations Published: Many Changes Ahead, 12/22/2010
- Program Integrity Regulations Continue to Raise Questions, Concerns, 2/11/2012
- Department Releases Guidance on State Authorization, Credit Hour, Other Areas, 3/23/2011
- State Authorization of Distance Education Vacated by U.S. District Court, 7/13/2011
- House Supports Repeal of Credit Hour/State Authorization Regs, 3/13/2012
- Developments in Distance Education, 6/12/12
- Dept. Ed. Issues Additional Guidance on State Authorization, 8/6/12
- Dept. Ed. Reminder: July 1 Is Final Deadline To Comply With State Authorization Regs, 3/12/2013
- Postsecondary Distance Education Final Report Released With Recommended Terms for Reciprocity Agreements, 4/2/2013
- Extension Requests Again Available for State Authorization Regs, 6/18/2013

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

Financial Responsibility Scores Made Public

The Department of Education recently published the FY11-12 financial responsibility scores for private (nonprofit and for-profit) institutions. Scores can range from -1 to +3. Those below 1.0 are considered failing scores. Those from 1.0 through 1.4 are "in the zone" and can be considered financially responsible if they take certain remedial actions. Scores of 1.5 and above are passing scores.

NAICU has raised questions about the accounting methods the Department uses in calculating the scores, particularly how it considers losses in endowments and certain long term liabilities, such as pensions. NAICU

NAICU / Washington Update / March 7, 2014 / 5 of 9
published a report detailing its concerns in 2012, but has received little positive indication from the Department that they feel the system inadequate.

According to the Department, 149 nonprofits were considered to be in the zone or failing. Overall, the number of nonprofit institutions that scored below 1.0 decreased slightly from FY10-11.

The scores are meant to gauge the fundamental elements of the financial health of an institution, not the educational quality of an institution, according to the Department.

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

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Congressional Outlook on FY 2015 Budget

Because last year’s budget process went into January, this year’s process, for FY 2015 is starting late – in March instead of February. House and Senate Budget Committee Chairmen Rep. Paul Ryan (R-WI) and Sen. Patty Murray (D-WA) agree that the total spending amount that was set in the January budget deal stands for their work in this cycle’s appropriations process. They will be hard at work on budget issues this spring, but are taking different approaches. Both Murray and Ryan have released reports in the last week, outlining where they might go with a budget process this year.

Murray clearly does not see the need for a budget resolution, and believes appropriators can get to work on FY2015 bills because the Bipartisan Budget Deal set the spending total in law. Her report, which focuses on the successes of the budget battles over the last five years, notes that there has been $3.3 trillion in deficit reduction over that time, and promotes an optimistic outlook for the economy. With that in mind, she says it’s time for Congress to pay attention to the other "deficits" in our country, and make new investments in jobs, education, infrastructure, R&D and our global competitive edge.

While Sen. Murray will not write a budget resolution, her report will help frame the Senate Democratic message on spending, deficit reduction, and increasing revenues during the process this year.

Rep. Ryan is expected to produce a budget resolution for the House. With the top line spending number set, he can look at how to reform entitlement programs and find additional deficit reduction. His recent report, The War on Poverty: 50 Years Later looks at how the government has spent trillions of dollars on duplicative, counter-productive anti-poverty programs; programs which have not had their intended impact as poverty rates are the same, if not worse, than 50 years ago. It is a thoughtful, academic piece that gives a program-by-program analysis of history and effectiveness.

Rep. Ryan’s report includes a chapter on Education and Job Training which reviews 24 federal programs and four tax expenditures across seven agencies, with total spending of $94.4 billion in FY2012. Three programs in student aid are reviewed – Pell Grants, SEOG and TRIO – from the angle of looking at evidence to see if the program is serving its purpose. Multiple sources from government and academia are referenced as resources for the evidence.

The critiques of the Pell Grant program are that it is too broadly available to college students, not just low-income students; and that while the evidence recognizes that “the research is mixed,” increases in Pell grants result in increased tuition. For TRIO, the report references an OMB analysis that finds three of the six TRIO programs – Student Support Services, Talent Search, and McNair Post-Baccalaureate Achievement – were “moderately effective” in meeting the intended purposes of the programs, while the others were found “ineffective” or “not demonstrated.” And finally, for SEOG, the report notes that there is “little, if any, academic research on the effectiveness of SEOG.” However, the “the bulk of aid goes to private colleges, which traditionally enroll a much smaller share of low-income and/or Pell-eligible students,” and that “students at very high cost institutions are more likely to receive a SEOG.”

It is important to keep this research in mind, as it will be instrumental in how the House Republican Caucus approaches funding for these student aid programs this year; and more broadly how they approach any work on entitlement reform in the budget process.

For more information, contact Stephanie Giesecke, Stephanie@naicu.edu
**Negotiated Rulemaking Committee Begins Work on Multiple Regulatory Fronts**

The Program Integrity and Improvement Negotiated Rulemaking Committee began its work on February 19, 2014. The negotiated rulemaking is another attempt to update program integrity regulations that has stretched over several years. The first session of this round of negotiations provided an overview of the half-dozen diverse issues for which additional regulations are to be developed. These include state authorization for distance education programs (See Education Department Set to Enforce State Complaint Process Requirements for additional information) and for the foreign locations of U.S. institutions, PLUS loan eligibility, debit card restrictions, the clock to credit hour conversion formula, and aid for repeated course work.

Among this assortment of issues, state authorization is one of the most important to NAICU members. Unfortunately, since most committee members are unfamiliar with the topic, it is hard to predict whether there will be agreement on this matter – or the other myriad issues. A subcommittee, which NAICU staff will work closely with, has been created to address this issue. Ultimately, it is not clear how any new Department of Education regulations would interact with the work now underway to obtain state participation in a national State Authorization Reciprocity Agreement, known as SARA. Additional information about the regulation of distance education and SARA may be found in a recently updated NAICU background paper.

The PLUS loan issue is also of importance to NAICU members and is meant to address a dramatic spike in the number of loan applications that were denied several years ago, causing enrollment havoc at many colleges. The increase in denials occurred during the economic downturn beginning in 2008, and after the Department implemented stricter monitoring of “adverse credit history.” HBCUs, hit particularly hard by the change in credit review, are represented on the committee by Benedict College President David Swinton and Miles College President George French.

The regulation of debit and prepaid cards provoked significant discussion among the committee members. Some of the consumer advocates urged tighter controls and improved services for students. Representatives from various finance and servicing companies urged caution about over-restriction of a rapidly evolving industry. Institutional branding on such cards also provoked debate. One institutional representative saw it as a method for obtaining a better product for their students while others deemed it a “kick-back.”

The conversation around the clock to credit hour conversion formula, and aid for repeated course work was less controversial because the issues seem to have been added to the agenda for conforming changes that are mostly technical in nature. How technical the proposed changes actually are will become more evident once the Department circulates actual language.

Elizabeth Hicks of MIT and Joe Weglarz of Marist College were chosen to represent private, nonprofit colleges on the committee, which will next meet March 26-28 and April 23-25.

*For more information on issues related to state authorization, contact Susan Hattan, Susan@naicu.edu*
*For more information on all other regulatory issues, contact Maureen Budetti, Maureen@naicu.edu*

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**NAICU Comments on IRS Regulations**

NAICU, along with members of the NAICU Secretariat and NAICU State Executive network, worked with the American Council on Education to submit comments to the IRS on the question of whether proposed limitations on the political activity of 501 (c)(4) nonprofit organizations should also be applied to 501 (c)(3) organizations, such as private nonprofit colleges and universities.

The proposed regulations, released in November, are generating significant media and public interest. The agency received over 143,000 comments from organizations on the left and right, Members of Congress and individual citizens.

The comments from higher education highlight the important role colleges and universities play in civic education, democratic participation and political discourse, and how that role could be stifled if the proposed regulations were applied to 501 (c)(3) organizations. The letter specifically notes that the Higher Education Act
requires colleges and universities to make voter registration materials available to students. Additionally, campuses are regularly used as “town hall” venues, hosting, for example, nearly all the recent major presidential and vice presidential debates.

In general, the higher education community requests that the proposed 501 (c)(4) regulations not be extended to 501(c)(3)s, which are currently permitted to engage in nonpartisan voter education, voter registration, and get out the vote efforts. Under the proposed regulations, all such activities would be negatively impacted if not prohibited.

The letter also asks that the IRS maintain the “facts and circumstances” approach to considering nonprofit political activity, rather than creating a list of prohibited activities that could lead to limiting freedom of speech.

It is clear from the notice that the IRS wants to move to specific definitions of political activity, and away from allowing activities that could be “nonpartisan” or “neutral” to avoid “fact intensive mitigating circumstances.” This, unfortunately, could result in an overly simplified check list for determining whether a nonprofit has participated in political activity or not, rather than a thorough consideration of a nonprofit’s activities. Such a result would likely stifle certain informational and civic activities and lead to less participation in the democratic process for fear of being in violation of these rules.

It will take time for the Department of Treasury/IRS to consider all the comments received in response to the proposed nonprofit regulations. In the meantime, House Ways and Means Committee Chairman Dave Camp (R-MN) has introduced legislation to block the implementation of the regulations. Many believe that the proposed regulations will be substantially changed as a result of the large public response.

For more information, contact Stephanie Giesecke, Stephanie@naicu.edu

Registration for SAM Initiative Continues

Project Announces the Support of Nine Higher Ed Groups

The Student Achievement Measure (SAM), launched last year, continues to accept college and university registrations. To date, the initiative, which is working to identify more comprehensive ways to measure student progress and completion, has more than 400 colleges and universities participating.

Led by the Association of Public and Land-grant Universities (APLU) and the American Association of State Colleges and Universities (AASCU), and using data from the National Student Clearinghouse, SAM seeks to report student progress at the bachelor’s degree and associate’s degree/certificate level, including students who enroll and graduate from the same institution, transfer and graduate from one or more subsequent institutions, and students whose status is unknown.

APLU recently announced that nine higher education organizations are publicly offering their support and encouraging their members to participate in the initiative.

The organizations supporting SAM include the Association of Governing Boards of Universities and Colleges (AGB), the College Board, the National Association of System Heads (NASH), National Center for Higher Education Management Systems (NCHEMS), the National Institute for the Study of Transfer Students (NISTS), the State Higher Education Executive Officers Association (SHEEO), Urban Serving Universities (USU), the U.S. Education Delivery Institute (EDI), and the Western Interstate Commission for Higher Education (WICHE).

SAM is a joint initiative of six national higher education presidential associations: the American Association of Community Colleges (AACC), the American Association of State Colleges and Universities (AASCU), the American Council on Education (ACE), the Association of American Universities (AAU), the Association of Public and Land-grant Universities (APLU), and the National Association of Independent Colleges and Universities (NAICU).

For more information about the initiative or to find out how to participate, visit the SAM website.

For more information, contact Pete Boyle, Pete@naicu.edu
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