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### 114th Congress Kicks into Gear

The 114th Congress got its official start on January 6, spending most of the month organizing and sorting its intended legislative agenda. The 2014 midterm elections dramatically changed the make-up of both the House of Representatives and the Senate. In the House, Republicans bolstered their majority by gaining a 247-188 seat advantage, while in the Senate, Republicans took over the majority, gaining a 54-46 seat advantage. With this new majority, Sen. Mitch McConnell (R-KY) becomes Majority Leader replacing Sen. Harry Reid (D-NV), who moves to Minority Leader.

If Congress moves as planned, colleges and universities would see a great deal of activity on issues that would impact higher education.

Carrying over from the last Congress, the tax committees (House Committee and Senate Committee) in both chambers plan to continue their efforts at tax reform, which could include simplification of the confusing array of current tuition benefits for students. [See June 27, 2014 Washington Update] Such a proposal could be a huge help to all students, provided no student gets their tuition benefits cut in the process. NAICU has been proactively supporting such a proposal for several years. Also on the plate of the tax committees are plans to strengthen charitable giving incentives.

More far-reaching discussions to reauthorize the Higher Education Act will continue in the education committees of both the House and Senate. Top topics include deregulation of higher education, reform of accreditation, simplification of aid programs and processes (including the potential elimination of most campus-based aid programs and the FAFSA, and reduction in federal student loan limits), campus safety, and Departmental overreach in such areas as teacher education, state authorization and credit hour definitions.

The president threw his own ideas into the mix during his State of the Union address with a proposed reduction in higher education tax benefits and free community college. Neither proposal is expected to take hold in this Congress, although his proposed elimination of certain tax benefits could put currently supported provisions on a future hit list.
The fate of all Congressional action will be highly dependent on presidential politics as both political parties start to jockey for the eventual election of a new president in 2016.

For more information, contact Sarah Flanagan, Sarah@naicu.edu

Senate Task Force on Federal Regulation of Higher Education Releases Its Report

The long-awaited findings from the Senate Task Force on Federal Regulation of Higher Education, which was organized and completed in conjunction with the American Council on Education (ACE), were released on February 12 in anticipation of a hearing on the issue scheduled for February 24. The report was released by Senate Health, Education, Labor and Pensions (HELP) Committee chair Lamar Alexander (R-TN), who was joined by a bi-partisan coalition of HELP Senators, including Barbara Mikulski (D-MD), Richard Burr (R-NC), and Michael Bennet (D-CO). Of the 16 members of the Task Force, seven were also NAICU members.

The report discusses in both general and specific terms the growing burden of federal regulation, and also includes interesting background papers on some of the structural break-downs in the regulatory process. As such, the report is likely to frame much of the deregulatory conversation that will be part of the reauthorization of the Higher Education Act. Congress has long sought a better understanding about what regulations colleges find so overwhelming so they can find a more appropriate balance between appropriate federal accountability and excessive federal regulatory burden.

The NAICU members who participated in the Senate Task Force were: Co-chairman Nicholas S. Zeppos, President, Vanderbilt University; William L. Armstrong, President, Colorado Christian University; Thomas V. Chema, President Emeritus, Hiram College; Margaret Drugovich, President, Hartwick College; Cornelius Kerwin, President, American University; and Claude O. Pressnell, Jr., President, Tennessee Independent Colleges and Universities Association. NAICU president David Warren was also an active participant in the Task Force deliberations.

For more information, contact Tim Powers, Tim@naicu.edu

2015-16 Pell Grant Maximum is $55 less than expected

The Department of Education, in a Dear Colleague Letter, defined the maximum Pell Grant award, and provided detail on the payment and disbursement schedules, for the 2015-16 award year.

The Pell Grant maximum for the 2015-16 award year will be $5,775, not $5,830 as previously reported. The reduced amount is due to a lower than expected rate of inflation, not because of any Congressional action.

The Pell Grant maximum is made up of two funding streams – one set by Congress in appropriations, and one set automatically based on inflation from mandatory funds. For 2015-16, Congress allocated enough funds for a base grant of $4,860, and estimated that the mandatory add on would make the final total grant $5,830, or $100 more than last year. However, when the Office of Management and Budget released the official inflation data for 2014, the rate of growth was much lower than expected. Thus, the mandatory add on will only be $45 more than last year for a total maximum Pell Grant of $5,775.

In addition to the maximum award amount, the Department also provided the Pell Grant payment and disbursement schedules for 2015. Presidents should alert their Financial Aid Officers and Chief Financial Officers of the lower limit and schedules.

For more information, contact Stephanie Giesecke, Stephanie@naicu.edu
**Department of Education Releases Requirements for Final Perkins Loan Disbursements**

The Department of Education, in a [Dear Colleague Letter](#), established the parameters that colleges and universities must follow to “wind-down” their Federal Perkins Loan disbursements, and defined the conditions in which schools may continue to make certain student loans.

Unless Congress acts before then, authority for institutions to issue Federal Perkins Loans to new borrowers will expire on October 1, 2015. However, if an institution makes the first disbursement of a Federal Perkins Loan to a student for the 2015-2016 award year prior to September 30, 2015, the school may make any remaining disbursements of that 2015-2016 loan after September 30, 2015.

If a student has already received a Perkins Loan for the 2014-15 award year then that student may continue to receive loans in order to complete or continue their course of study through September 30, 2020. However, the borrower must meet all of the following conditions:

- The student received at least one Perkins Loan disbursement from the school on or before June 30, 2015.
- The student is enrolled at the same institution where the last Perkins Loan disbursement was received.
- The student is enrolled in the same academic program for which the student received his or her last Perkins Loan disbursement.

Additionally, certain borrowers may continue to qualify for Perkins Loan disbursements for five years beyond the 2015-16 award year under certain grandfathering provisions. In this case:

- A Perkins Loan can be made to an otherwise eligible grandfathered student to meet all or some of the student’s unmet need only after the student has been awarded all Direct Subsidized Loan aid for which the student is eligible.

The Department also indicated that it will issue further guidance to address the disposition of schools’ revolving funds and other outstanding loan portfolios “over the course of the next several months.”

*For more information, contact Tim Powers, Tim@naicu.edu*

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**President’s FY 2016 Budget Maintains Student Aid Funding and Hints at HEA**

The release of the president’s budget on February 2 kicked off the FY 2016 budget and appropriations process for the year. For education, the budget includes $3.6 billion more than last year, maintains funding for the student aid programs, and hints at what the Administration might support during the reauthorization of the Higher Education Act (HEA), scheduled for consideration this year.

Following are the highlights of the student aid funding proposals, all of which would need to proceed through the budget and HEA reauthorization to be enacted:

**Pell Grants:** The maximum grant for FY 2016 is requested at $5,915. To make this possible, the budget proposes $29 billion in FY 2016 appropriations to maintain the $4,860 baseline portion of the grant, and an additional $29 billion over 10 years to extend the mandatory add-on. Together this would ensure scheduled increases in the maximum grant continue at inflation rates for the program’s 8.4 million recipients. The Administration’s proposal to continue the Pell Grant increases is particularly significant
because the original add-on was paid for by the conversion to direct loans and will now expire. The new funding stream is paid for by savings created by the expansion of income-based repayment on student loans (see below). Congress would need to enact legislation to support this proposal.

**Campus-based aid:** The budget proposes to reform and redistribute funding for the campus-based aid programs, including Supplemental Educational Opportunity Grants (SEOG), Federal Work Study (FWS), and Perkins Loans. Level funding for SEOG and FWS would be reallocated to institutions based on their levels of Pell Grant recipient enrollment and completion, net price by sector, and a “quality education such that graduates can repay their educational debt.” The Administration aims to target funding of the programs more equitably to institutions serving low-income students, rather than institutions that have participated in the programs for decades. This proposal was also part of last year’s budget.

For the Perkins Loan program, the budget includes the familiar proposal to continue with the sunset of the current Perkins Loan program, and reinvent a new unsubsidized Perkins Loan as a direct loan program. This new loan program would provide $8.5 billion in loans to more than 730,000 students, which is more than double the current participation. Institutional participation, like SEOG and FWS, would be based on levels of Pell Grant recipient enrollment and completion, net price by sector, and a “quality education such that graduates can repay their debt.” Budgetary savings from this proposal would be reinvested in the Pell Grant extension.

**Pay As You Earn:** The Administration plans to make all student borrowers eligible for an income-driven loan repayment plan by the end of 2015. This would be achieved by expanding eligibility for the Pay As You Earn (PAYE) plan. Currently, only some borrowers, depending on when they borrowed, are eligible for the plan which caps payment at 10 percent of a borrower’s discretionary income and forgiving the remaining balance after 20 years of payments. PAYE is the most generous of the income-driven repayment plans and details of its expansion are to be worked out during negotiated rule-making sessions that begin later this month. Ultimately, the Administration aims to work with Congress to make this the only income-driven repayment plan targeted to the neediest borrowers whose first loan is originated on or after July 1, 2016. The Administration proposes to use any savings from an expanded PAYE to index the maximum Pell Grant to inflation after 2017.

**FAFSA Simplification:** The Administration proposes to reduce the number of data elements on the Federal Application for Federal Student Aid (FAFSA), by removing those that pertain to assets and untaxed income. The determination of eligibility for federal student aid would rely primarily on income data reported to the IRS. In conjunction with the IRS retrieval tool, used by the majority of applicants, the FAFSA would be reduced by 30 questions, including those related to savings, investments, and net worth. The changes would be done in conjunction with changes to the Expected Family Contribution to prevent students from receiving lower aid awards.

Congress is also interested in simplifying the FAFSA. Sen. Lamar Alexander (R-TN) has proposed that only adjusted gross income and family size be used to determine aid eligibility.

NAICU supports reasonable simplification, but is concerned that a too severe restriction in financial and family data might force states and institutions to use supplementary forms to provide their aid. This could be costly and confusing for students. The National Association of Student Financial Aid Administrators also expressed concern about “over-simplification” of the FAFSA in a recent article in Inside Higher Education.

**Proposed Changes to Pell Grants:** In addition to its specific Pell funding proposals, the Administration proposes several changes to students’ eligibility for Pell Grants. To limit aid to students who are not progressing academically, the Department of Education would strengthen academic progress requirements to encourage students to complete their studies on time. It would also prevent additional Pell disbursements to recipients who repeatedly enroll and obtain aid, but do not earn any academic credits. On the other hand, the Administration also proposes to expand the eligibility of ability-to-benefit students who are enrolled in eligible career pathways programs to receive maximum, not just partial, Pell Grants. Also, the Iraq and Afghanistan Service Grants would be moved into the Pell Grant program to protect them from sequestration.

For more information on the budget and funding, contact Stephanie Giesecke, Stephanie@naicu.edu

For more information on the proposed changes to student aid, contact Maureen Budetti, Maureen@naicu.edu

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**President Outlines Plans for Higher Education in State of the Union**

During his State of the Union Address, which had the broad theme of "middle class economics," President Obama outlined his agenda, including several higher education recommendations such as realigning tax priorities and a proposal for free community college.

Among his proposals, the president is seeking to combine six current higher education tax benefits into a single tuition credit. While he categorized the six benefits as "overlapping," there are actually only four overlapping tuition benefits. The additional two benefits, the tax-preferred Sec. 529 college savings plans and the student loan interest deduction (SLID), are not tuition benefits, they are actually benefits that help students and families save for college and repay student loans. NAICU has submitted its own recommendations to Congress on consolidating the tuition benefits.

Specifically, President Obama proposed:

- Making the American Opportunity Tax Credit (AOTC) permanent. The $2,500, partially refundable, tuition tax credit is currently set to expire at the end of 2017.
- Increasing the amount of AOTC refundability (cash available to individuals with incomes too low to pay taxes) from 40% to 60%.
- Eliminating the Hope and Lifetime Learning Credits and the tuition deduction.
- Eliminating SLID in its entirety.
- Eliminating the 2001 tax benefits to Sec. 529 college savings plans – this would include tax-free withdrawals, and the ability for private colleges to offer their own plans. Within a few days of the State of the Union speech, the White House had backed away from this proposal. The plans are seen as a tax benefit for the middle class and enjoy widespread support. In addition, when families who have the ability to save are incentivized to do so, it allows colleges and universities to better target need and merit aid.

The tax proposals would need to be introduced as legislation in the House and Senate. Currently, both chambers have different ideas on the best way to consolidate the higher education benefits, and it’s unclear when these legislative efforts might be considered.

**America’s College Promise – Free Community College**

On the spending side, the President highlighted a $60 billion investment over 10 years in a federal-state partnership to provide two years of free community college. This benefit would be available to “responsible” students at “high-quality” community colleges in states that commit to funding 25 percent of the total price tag. States would also have to take several federal prescribed reform steps including coordinating high school, community college, and four-year college alignment; and allocating funding based on performance.

The proposal reflects the “middle class economics” theme by targeting free community college tuition to families under $200,000 AGI. To qualify, students will have to attend community college at least half-time, maintain a 2.5 GPA, and make steady progress towards completing a certificate or associate’s degree. Eligible programs at community colleges will have to be either academic programs that fully transfer to local public 4-year colleges and universities; or occupational training programs with high graduation rates and demand by employers.

As with the other higher education proposals included in the President’s FY 2016 budget these ideas will need congressional action to be implemented.

*For more information on the tax provisions, contact Karin Johns, Karin@naicu.edu*

*For more information on the community college proposal, contact Stephanie Giesecke, Stephanie@naicu.edu*
NAICU Submits Comments on Proposed Postsecondary Institutional Ratings System

Late last year, the Department of Education invited public comment on its framework for a college rating system. Responding to that invitation, NAICU submitted comments to the Department that reiterated the Association’s support for President Obama’s focus on access, affordability, and transparency, especially in the form of consumer information. NAICU’s comments, however, stressed that the Association and its members could not support any effort that would substitute a federal rating for an individual’s judgment about what is important and valuable in an educational experience.

It is not too late to provide comments to the Department. Comments are due by February 17 and can be submitted through this online form: www.ed.gov/blog/collegeratings or by email to collegefeedback@ed.gov.

NAICU’s comments expressed support for efforts by the federal government to help students and families who are weighing options in higher education to make better informed choices that go beyond the commercial ratings and rankings and rely on the facts. NAICU also expressed concern that the weighting and assignment of value to that information must remain squarely in the hands of individuals. It is a fundamentally impossible task for the federal government to design a ratings system that is both a useful consumer information tool and an effective accountability system.

Key Provisions of the Ratings Framework

- The proposal still envisions developing a federal system for evaluating colleges, and making that system available to the public. It is not clear if the ultimate ratings system will simply consist of a single rating for each institution, or if a series of ratings based on such categories as “affordability,” “access,” and “success” will be created. In either event, the concept of a federal values metric or metrics persists.

- The proposal identifies 12 categories of data that might be used to create this ratings system: percentage of a college’s enrollment receiving Pell; Expected Family Contribution (EFC) gap; family income; percentage of enrolled students who are the first in their family to attend college; average net price; net price by family income; average loan debit, completion rates; transfer rates; labor market success; graduate school attendance; and loan performance outcomes.

- The proposal currently combines institutions into two broad categories (4-year & 2-year) for comparison purposes, and excludes less-than-2-year and graduate institutions. Administration officials are still considering if there is a better method for determining peer institutions.

- The proposal anticipates making adjustments based on student characteristics. Such adjustments would most likely be applied to earnings and completion measures, based on the Free Application for Federal Student Aid (FAFSA) information.

Additionally, Representatives Bob Goodlatte (R-VA) and Mike Capuano (D-MA) have reintroduced a resolution in the U.S. House of Representatives condemning the proposed institutional ratings system, and are actively seeking co-sponsors. The resolution (H. Res. 26) is identical to the language introduced during the 113th Congress that was cosponsored by a bipartisan coalition of 35 Members of Congress.

For more information, contact Tim Powers, Tim@naicu.edu
NAICU Submits Comments on Teacher Preparation Regulations

On January 30, NAICU submitted comments to the Department of Education on the proposed regulations for teacher preparation programs. NAICU’s comments reflect its concerns about federal over-reach into state and institutional responsibilities to prepare, certify, and license teachers for our nation’s K-12 schools.

Generally, the NAICU comments cover four main areas of concern, with additional extensive section-by-section analysis. Those concerns are that the regulations:

- Set federal standards for the teaching profession;
- Require states to use these standards in evaluating teacher preparation programs;
- Create a four-tier rating system of all teacher education programs that is not anticipated in law; and
- Determine eligibility for Title IV student aid using the rating system.

The comment period on the Notice of Proposed Rulemaking (NPRM) closed February 2, with more than 4,500 comments submitted to the Department. [See December 17, 2014 Washington Update for more information on the proposed regulations.] A review of the comments reveals the Department received many more comments in opposition to, rather than in support of, the proposal. The Department is required to read, consider, and respond to all comments submitted to a proposed regulation. Comments are publicly available for review at www.regulations.gov; search for “teacher preparation” to find all the related materials.

OMB Comments on Cost and Burden

Also included in the original proposed rule was a request for separate comments to the Office of Management and Budget (OMB) on the cost and burden of implementing the regulations. Any regulation whose 10-year cost exceeds $100 million would be deemed “economically significant,” bringing greater scrutiny to the entire regulatory package. The cost and burden to implement regulations are often underestimated by the federal government, and this proposed rule was no exception. The official estimate for the total ten-year cost of the proposed regulations was between $42 and $42.1 million.

But in one particularly detailed comment on this cost, the State of California estimated their price tag for implementing the regulations at $233 million in initial data development and assessment costs, and $485 million in ongoing annual implementation costs.

NAICU also submitted comments to OMB, which were due on January 2, on the cost burden, highlighting the potential economic impact of the regulations on the diverse range of member institutions, particularly small institutions without specialized programmatic accreditation.

The Department plans to have a final regulation issued by September 2015, with an implementation timeline that would set July 2020 as the first time the link between program rating and TEACH Grant eligibility would be effective. NAICU opposes these regulations and appreciates all the member institutions that took the time to write on these proposed rules.

For more information, contact Stephanie Giesecke, Stephanie@naicu.edu
House Ways and Means Committee Approves Permanent Charitable Tax Package; Bill Includes IRA Charitable Rollover

On February 4, the House Ways and Means Committee approved seven bills that would make permanent several temporary charitable tax benefits, including the IRA charitable rollover. Similar legislation was scheduled for fast track consideration in the House and Senate last December, but did not advance after a veto threat from the White House.

H.R. 637, which passed on a party line vote, would make permanent the benefit allowing tax-free distributions for retirement accounts for charitable purposes. The benefit is limited to individuals age 70½ and older, and cannot exceed $100,000 annually. The IRA rollover last expired at the end of 2014, after only being renewed briefly at the end of the year. Making this benefit permanent is a top NAICU tax priority.

Democrats voted against all of the bills because their costs were not offset with tax increases, although many spoke in favor of the rollover in particular. The new Chairman of the Ways and Means Committee, Paul Ryan (R-WI), said the bills were brought up for consideration outside of the tax reform process because “…we need to increase taxpayer certainty. The habit of extending tax provisions after they’ve expired should end. We need to give people the certainty they need, and fix this mess.”

It’s uncertain when the Senate might take up this or similar legislation. It’s also unclear if the White House is reconsidering its prior veto threat.

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

Department Outlines the Impact Institutions will Face Due to Changes to PLUS

The Department of Education posted the first in a series of announcements providing operational information about changes to the Direct PLUS Loan adverse credit history provisions contained in the October 23, 2014 final regulations. [See October 29, 2014 Washington Update for background on the PLUS changes.]

The announcement provided explanations on the operational updates institutions will have to consider prior to the changes being implemented on March 29, 2015. These include:

- Modification to an institution’s website and materials on PLUS Loans to reflect the new requirements, particularly the Department’s new counseling requirements.

- Modification to internal processes and procedures to ensure that any required special PLUS Loan counseling has been completed prior to making the Direct PLUS Loan disbursement, and that the school’s system can receive the new credit check and counseling information from the Department.

This announcement also provided information on the credit checks, the Department’s PLUS Loan counseling system, and links to the October final regulations and a technical information resource.

The Department announced that it will host a webinar on February 17, 2015, from 1:00-2:00P.M. EDT, to provide additional information and clarification on the changes.
In the coming weeks, the Department will provide more detailed information about PLUS Loan updates to the financial aid delivery system (the Common Origination and Disbursement system).

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

Department Alerts Colleges of Reporting Requirements for Third-Party Servicers

Concerned that "a significant number of institutions have failed to report, update, and/or have incorrectly reported third-party servicer information," the Department of Education issued guidance to clarify the reporting responsibilities institutions have when using outside servicers. The Department delineated which activities performed by a third-party servicer fall under the reporting requirements.

The following are considered reportable third-party activities: Reportable third-party servicer activities are related to various aspects of processing the FAFSA and Title IV funds and refunds, default management, loan counseling, Perkins Loan servicing, enrollment reporting, and preparation and dissemination of a variety of consumer information disclosures.

The following activities DO NOT create a regulatory third-party servicer relationship: Activities such as preparing financial statements, mailing institutional documents, physical warehousing of records, and provision of certain on-campus computer services or software are not viewed as creating a regulatory third-party servicer relationship.

Using the Department's E-App process, institutions must report the names, and other identifying information, of any individuals or entities the institution contracts with to perform the enumerated Title IV functions. The information must be reported within 10 calendar days of an institution entering into, or substantially modifying, a contract with the third-party.

A third-party servicer contract must specify that the third-party servicer will comply with the relevant regulatory requirements applicable to the institution for those activities, including reporting possible fraud to the Inspector General, complying with relevant FERPA requirements, and accepting joint and several liability with the institution for violations in the provision of Title IV services.

Third-party servicers are also subject to the customer information security requirements established by the Federal Trade Commission for financial institutions. Third-party servicers must submit an annual compliance audit to the Secretary. The Department is aware that some servicers have not submitted their audits because of faulty assessments that they did not meet the regulatory definition of a third-party servicer.

Additional guidance on audit requirements will be forthcoming from the Department.

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

Call for Summary Judgment on Gainful Employment Suit

The Association of Private Sector Colleges and Universities (APSCU), which represents for-profit institutions, filed a motion for summary judgment in its November 2014 suit challenging the Department of Education’s gainful employment regulations.

The Chamber of Commerce of the United States of America has submitted an amicus curiae brief in support of APSCU’s motion.

The summary judgment process moves consideration of the suit along more expeditiously because both sides have agreed to the facts in the case and are only arguing about the law involved.
The Department has until March 6 to reply to the motion for summary judgment. A hearing on the case is set for May 20. If the judge decides in favor of APSCU, the gainful employment regulation would be vacated. If the judge decides against APSCU, it will likely appeal that decision. The regulations, published October 2014, are scheduled to go into effect on July 1, 2015.

APSCU won an earlier gainful employment case against the department in 2013. The decision invalidated much of the earlier, 2011 regulation on gainful employment. In this recent suit, APSCU is arguing that the most recent gainful employment regulations are even “more irrational and arbitrary,” exceed the Department’s statutory authority, are harmful to student access, and violate the Administrative Procedure Act. The Association of Proprietary Colleges in New York has also filed for summary judgment in its similar case in New York District Court.

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

Seen and Heard at the 2015 Annual Meeting

Get a recap of the 2015 NAICU Annual Meeting through photos and the tweets sent by meeting attendees.

For more information, contact Paul Hassen, Paul@naicu.edu

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