

## Status Advisory on Senate Student Loan Legislation

As you know, the ongoing Senate debate on health care legislation has delayed all other major legislative activity, including action on the Student Aid and Fiscal Responsibility Act ([H.R. 3221](#)), until the new year. However, given what could be an expedited legislative schedule once the health care bill is concluded, I thought it important to provide you with a quick summary of where we are on the higher education legislation and the issues we are addressing. *Those of you with representatives on the Senate Health, Education, Labor and Pensions (HELP) Committee should use this information to communicate the higher education community's position to members and committee staff.*

The House of Representatives approved the Student Aid and Fiscal Responsibility Act in September. The legislation implements President Obama's proposal to eliminate the bank-based component of the federal student loan program and move all colleges and universities to the federal Direct Loan Program no later than July 1, 2010. Under federal budgeting rules, such a step would save substantial sums, and the House bill uses some of the savings to underwrite other presidential education priorities – such as providing annual increases in the Pell Grant maximum award, lowering the interest rate on federal student loans and providing federal funding to community colleges, Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges. We applaud the House for these features but are concerned that the bill encourages states to oversee and manage public colleges and universities in ways that they do not at present and which may ultimately hinder rather than improve institutional performance.

Efforts to approve similar legislation have stalled in the Senate because of the ongoing debate over health care. Despite the delay, Democratic staff members on the Senate HELP Committee have been drafting their own version of this legislation and we have had discussions regarding its content. While we will strongly support many of the provisions in the Senate bill, we have several concerns that have prevented us from enthusiastically supporting the drafts of this legislation that we have seen.

Specifically, we believe the draft legislation gives the secretary of education the authority to impose academic "benchmarks" that would be used to measure institutional performance and provides states funding to oversee and evaluate the performance of colleges and universities. In addition, we want to make certain that the promised increases to the Pell Grant Program are totally paid for and that proposals for state unit record databases contain essential safeguards related to the storage, use and privacy of the information. Finally, we believe appropriate steps must be taken to ensure that the availability of federal money does not provide an incentive that enables states to cut higher education funding.

While there are some differences of opinion among the higher education associations regarding the likely impact of the Senate drafts, there are four overarching concerns that we all share.

### **1. Ensuring the expansion of Pell Grants and other student aid initiatives**

We enthusiastically support the efforts to enhance the Pell Grant Program contained in this legislation. Like its House counterpart, the Senate bill sets up mandatory (or entitlement) spending to increase the maximum Pell Grant by the Consumer Price Index plus 1 percent every year for the next 10 years. If this happens as planned, the maximum Pell Grant is projected to reach \$6,900 in 2019. Importantly, these annual Pell Grant increases depend on Congress' ability to continue funding the Pell Grant award at its current maximum level (\$4,860) through the annual appropriations process. The mandatory or entitlement spending would be in addition to this base funding level.

We are also seeking assurance that an emerging problem does not undermine the ability of Congress to provide the promised increases in the Pell Grant Program to students. Due to the impact of the economic recession, many more students are getting Pell Grants than the Department of Education initially predicted. This has produced a large budget shortfall (rumored to be as much as \$18 billion) that must be paid off. It is important that this be done in a way that will not compromise the promised increases in the maximum Pell award.

It is also important that the proposed expansion of the Perkins Loan Program (another recommendation of the Obama administration) is done in a way that makes this program an attractive option for institutions to offer in order to present students with affordable borrowing options.

## **2. Creating a new and expanded role for states and state bureaucracies**

We strongly support President Obama's goal to increase postsecondary attainment for all students, especially the American Graduation Initiative. Reaching this goal will require that colleges and universities redouble efforts to improve student persistence and graduation. The initial draft of the Senate legislation would award the bulk of the funding for persistence and completion activities to state bureaucracies and in essence require them to impose policy mandates on institutions. We believe that extensive institutional involvement is crucial to the successful development and implementation of plans to boost persistence and graduation.

Staff members have indicated a desire to move in the direction of a partnership or collaborative approach but we will need to closely examine the final language to make certain that institutions will not be faced with a state-designed, one-size-fits-all mandate.

## **3. Letting the secretary of education set outcome measures for institutions**

The draft Senate legislation requires the secretary to "define the indicators to be used to measure progress and success" in carrying out the bill's broad-ranging student access and persistence grant programs. Depending on how this language is interpreted and implemented, it could represent a significant new authority for the secretary to establish institutional-level outcome data. We believe it is crucial that the final bill does not explicitly or implicitly give new authority to the secretary to write or approve specific institutional outcome measures.

## **4. Ensuring maintenance of effort**

Despite clear legislative language, few states have used their federal stimulus money for higher education. The National Council on State Legislatures recently estimated that state budget shortfalls will be \$60 billion in 2011 and \$50 billion in 2012. Given the continuing pressures on state governments, we think it essential that: 1) any state getting federal money to boost access and persistence be required to continue funding higher education at the same or higher level as they are at present; and 2) federal funds be used to supplement state funding and not supplant it. Nor should states be able to cut their spending on student aid if they receive access and persistence funds. These are usually called "maintenance of effort" and "supplement not supplant" requirements, and they are common features in federal elementary and secondary education programs. It is critical that they be included here.

**Here is the legislative challenge we face as we approach the end of the year:** The draft Senate bill is in flux and we have not seen a complete draft of what is likely to be a long and complex measure. Once the bill is introduced, we expect that action in committee and on the Senate floor will occur very quickly and we may not have a substantial amount of time to make modifications. We also expect the House and Senate will conference the different versions of their legislation very quickly. Therefore, it is imperative that members of the Senate HELP Committee hear and understand those concerns you share to make certain this vitally important legislation will fulfill its great promise.