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Washington's Higher Education Calendar in 2013

Now that the “fiscal cliff” is (partially) resolved by Congress and the White House, there will be several bills that may (or may not) be considered in Washington that could affect higher education in 2013. Here's a quick overview of what to look for in 2013.

Fiscal Cliff Recap – The American Taxpayer Relief Act of 2012

Yes, the United States Senate sure knows how to throw a New Year's Eve party! They were in session straight through midnight on December 31 and held a vote on the Act that wrapped up around 2 a.m. on New Year's Day. And yes, it's titled the American Taxpayer Relief Act of 2012 (ATRA) even if not voted on by either chamber or enacted until 2013.

The 2001-2003-2010 personal income tax cuts were extended for single tax filers making up to \$400,000 and joint filers making up to \$450,000; income above that level will be subject to the pre-2001 tax rates (i.e., up to 39.6%). The 2011-2012 payroll tax holiday was not extended, so most American workers will see their paychecks decline by about 3% - while the tax holiday was 2%, on a typical \$2000 gross paycheck, the hit will be \$40, but the typical net on that paycheck would be about \$1300-1400, thus \$40 is a 3% decrease. Relative to higher education, the American Opportunity Tax Credit (AOTC) was extended for five years. Expanded Coverdell Education Savings Accounts and the student loan interest deduction were made permanent.

Sequestration, the across-the-board spending cuts required by 2011's Budget Control Act, was not directly addressed by ATRA except to postpone a decision on spending cuts until March 1, 2013. As things stand, sequestration will result in significant cuts to the Supplemental Education Opportunity Grant and the College Work-Study programs; students would see both these cuts reflected in financial aid award letters for the 2013-14 academic year. Origination fees on Stafford and PLUS loans would increase under sequestration, effective July 1, 2013. Pell Grants are not affected by sequestration,

The federal debt ceiling was not addressed by ATRA; even with Treasury's “extraordinary measures”, the debt ceiling limit is likely to be hit in March. The combination of the debt ceiling, the March 1 trigger date for sequestration, and the March 27 expiration of the federal fiscal year 2013 budget continuing resolution may create the “perfect storm” of Congressional challenge in the next few months that may well make the fiscal cliff debacle seem like a walk in the park. While averting the fiscal cliff on personal income tax rates was critical for the US economy, failure to address the debt ceiling in a timely manner could tip the global economy into a financial crisis.

Federal Fiscal Year 2013 Budget

Currently, the federal government is operating on a “continuing resolution” through March 27, 2013. Generally, education and other programs are funded at the prior year’s levels until Congress passes a full-year budget resolution. Usually, budgets are passed and enacted for each Department (e.g., Defense, Education, Agriculture, etc.), but not a single budget for 2013 has been enacted into law. Many expect that an omnibus bill, which combines all federal agencies, usually at prior year’s funding levels, subject to some adjustments, could be passed as part of debt ceiling negotiations, but it is difficult to predict how a new Congress will behave in January and beyond.

Subsidized Stafford Interest Rates

Last year, Congress acted to prevent the interest rate on subsidized Stafford loans from doubling to 6.8% on July 1, 2012, but eliminated the interest subsidy during the six-month grace period for new loans originated on or after July 1, 2012. The rate is once again set to double on July 1, 2013. In part because it’s not an election year and in part because it’s a very expensive fix (from a federal budget-scoring perspective), very few people think the rate will again stay at 3.4%, but very few people think the rate will be allowed to double to 6.8%, so stay tuned.

Other than a federal budget, addressing the Stafford interest rate may be the only “must pass” legislation for higher education in 2013. Let’s hope the legislation strengthens the financial literacy component so students and parents fully understand the loan terms and conditions and their payment options. Even in a challenging economy, it’s hard to understand why default rates are rising when the Income-Based Repayment option is available to all Stafford borrowers.

Reauthorization

The Higher Education Act (HEA) is typically scheduled to be reauthorized every five years, but with a mixed record of when the bill actually is enacted. Reauthorization is due this year, and there is some expectation of hearings and discussion this fall, but no one is predicting that a bill will pass in 2013.

One item to watch in Reauthorization is that there is one more year of mandatory College Access Challenge Grant (CACG) funding, and while LEAP has been zero-funded for a couple years, it is still authorized as a program. NASSGAP is looking to ensure that federal-state partnership programs, which support opening and maintaining the pathways to college, a degree, and a 21st century job, remain authorized and are fully funded.

Federal Fiscal Year 2014 Budget

The President’s FFY14 budget proposal is due in early February to Congress, but with the uncertainty of the fiscal cliff and the fact that a final FFY13 budget has not yet been passed, it seems likely that the FFY14 budget will be delayed, and once delivered will not have a clear timetable for Congressional action. None of the new initiatives in the President’s 2013 budget, such as an expansion of the Perkins loan program and the

“First-in the-World” initiative, have been voted on, much less passed, in either chamber of Congress.

Other Matters

The Pell Grant program is fully funded for the 2013-14 academic year, but is facing a shortfall for the 2014-15 year (which is funded in the FFY 2014 budget). The shortfall estimates have shrunk from initial estimates as high as \$6-8 billion to maybe \$2-4 billion, but the estimates will continue to fluctuate based on how the US economy affects college enrollment levels and the financial condition of students’ families. The shortfall could be addressed as part of the FFY14 budget and/or Reauthorization.

While there are draft bills circulating that would reduce the hurdles for borrowers seeking to discharge private student loans through bankruptcy, it is not clear that a stand-alone bill can pass both chambers of Congress, so there may be some effort to attach language to any Stafford rate fix or HEA Reauthorization bill that seems headed for a vote.

Summary

Even though Democrats increased their majority in the Senate and gained seats in the House, they do not have the votes to force action in either chamber of Congress. Look for budgets to be passed late, probably with use of omnibus or continuing resolutions rather than via individual bills.

A Stafford interest rate fix bill is more likely than Reauthorization to pass in 2013. While Reauthorization might seem like a good place to fix the Stafford rate, no one foresees Reauthorization passing before the interest rate is set to double on July 1.

And beware the Ides of March – demands from the House of Representatives for spending cuts could turn the debt ceiling debate into a stalemate with global implications.