

The Latest Word from ISAC on...

The Budget Reconciliation Legislation and Higher Education Act Reauthorization*

Upon returning to work following the holiday recess, the House voted on February 1, 2006 to approve the Deficit Reduction Act of 2005 (S. 1932), by a vote of 216 to 214. It will now make its way to the President's desk for his signature, which is expected. The Congressional Budget Office (CBO) estimates that the five-year agreement will save \$39.6 billion, of which \$11.9 billion comes from the student loan programs.

Initially approved by the House on December 19, 2005, the legislation had to return to the house floor for a subsequent vote due to technical issues brought up during the Senate debate in December. The technical issues did not impact any of the higher education provisions contained in the bill.

The Deficit Reduction Act of 2005 does not reauthorize the entire HEA. The portion of the bill that includes the provisions impacting higher education is found in Title VIII of the Act and is called the Higher Education Reconciliation Act of 2005. A number of provisions originally drafted as part of the HEA reauthorization legislation are contained in the Higher Education Reconciliation, mostly impacting the student loan programs. The remaining HEA provisions could still be reauthorized during the second session of the 109th Congress, but there's speculation that reauthorization may not happen at all in 2006. Legislation extending authorization of the HEA programs (H.R. 4525) was approved in December by both the House and Senate and provides for an extension of the HEA until March 31, 2006.

Although not inclusive, the following is a list of the major provisions included in the budget reconciliation bill that impact ISAC and/or its clients. Unless otherwise noted, these provisions take effect on July 1, 2006. These issues could also be examined again and possibly amended through the reauthorization process that may or may not occur in 2006. ISAC is in the process of thoroughly reviewing and analyzing the impact that S. 1932 provisions will have on the agency and its clients.

Grants

- Two new federal grant programs are authorized for Pell-eligible students.
- Academic Competitiveness Grants in the amounts of \$750 and \$1,300 are available to first- and second-year students who have completed a rigorous secondary school program of study recognized by the Department of Education.
- National Science and Mathematics Access to Retain Talent (SMART) Grants are available to third- and fourth-year students who are pursuing a major in science, mathematics, or foreign language and have earned at least a 3.0 grade point average.
- An Academic Competitiveness Council is created to examine and recommend improvements in federal programs with a mathematics or science focus.

Family Contribution/Needs Analysis

- For periods of enrollment beginning on or after July 1, 2007, the income protection allowance for dependent students and independent students without dependents is increased.
- For periods of enrollment beginning on or after July 1, 2007, the expected contribution from assets of dependent and independent students with dependents is reduced.
- The Department of Education is authorized to annually raise the income protection allowance tables for parents of dependent students and independent students with dependents beginning in the 2007-08 academic year.

- Eligibility for the simplified needs test is expanded to include independent and dependent students (or their parents) who received benefits under certain means-tested federal benefits programs.
- The income cap for “auto zero” EFC’s is set at \$20,000 and the eligibility for “auto zero” EFC is expanded to include independent students and dependent students (or their parents) who received benefits under certain means-tested federal benefit program.
- Active duty members of the armed forces are treated as independent students for purposes of the needs analysis calculation.
- Family controlled businesses are excluded from assets.
- Coverdell education savings and 529 plans are considered assets of only the parent.
- Prepaid tuition plans are treated the same as other college savings plans in the need analysis calculation (i.e., as an asset).

Definitions

- A clarification is made to the definition of an academic year. An academic year equals a minimum of 30 weeks of instructional time for a program that measures its program in credit hours. An academic year equals a minimum of 26 weeks of instructional time for a program that measures its program in clock hours.
- The definition of “eligible program” is expanded to include a program that is offered in whole or in part through telecommunications for institutions that have been evaluated and determined (either before or after the date of enactment) to have the capability to effectively deliver distance education programs by an accrediting agency or association that is recognized by the Secretary and has the evaluation of distance education within the scope of its recognition.

Student Eligibility

- Students who have pled “no contest” or guilty to a crime of fraud involving student loan funds to repay such funds in order to be eligible to receive Title IV grant, loan and work assistance.
- Students convicted of drug-related offenses lose their eligibility for Title IV assistance only if the conviction occurred during the period of enrollment for which the students are receiving aid.

Loan Amounts

- Annual loan limits are raised beginning on July 1, 2007, for first-year undergraduate students (\$2,625 to \$3,500) and second-year undergraduate students (\$3,500 to \$4,500), but aggregate limits remain the same.
- Annual loan limits for graduate and professional students are increased beginning on July 1, 2007, from \$10,000 to \$12,000, but aggregate limits remain the same.
- Annual loan limits are increased beginning on July 1, 2007, from \$5,000 to \$7,000 for students taking coursework needed to enroll in a graduate program or obtain a professional credential as an elementary or secondary school teacher.
- Graduate and professional students are allowed to borrow through the PLUS loan program.

Loan Interest Rates

- The interest rates structure for Federal Stafford and PLUS loans will change from a variable rate structure to fixed rate.
- The fixed rate for Federal Stafford loans will be 6.8% in the FFELP and Direct Lending programs.
- The fixed rate for Federal PLUS loans will be 8.5% in the FFELP.

Loan Fees

- The collection of a federal default fee equal to 1% of FFELP loans guaranteed on or after July 1, 2006, and the deposit of such fee into a guaranty agency's Federal Fund is required.
- The default fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-federal sources.
- The federal origination fee collected on FFELP loans, currently 3% of the loan principal, is phased out over time to become 0% by 2010.

Disbursement Rules

- The provisions, previously in law, that relaxed the disbursement rules (i.e., multiple disbursement and delayed delivery) for low cohort default rate schools are reinstated.
- Loans to students attending foreign schools are no longer exempt from the disbursement rules (i.e., multiple disbursement and delayed delivery).

Consolidation Loans

- The ability for spouses to consolidate their educational loans together is eliminated.
- The ability for students who are still in school to obtain a consolidation loan is eliminated.
- A FFELP borrower may consolidate through the Direct Loan Consolidation program only if the FFELP lender denies the borrower income-sensitive repayment terms.
- A FFELP borrower whose delinquent loan has been submitted to the guaranty agency for default aversion is eligible to consolidate through the Direct Loan Consolidation program for the purpose of obtaining an income-contingent repayment plan.

School as Lender

- Schools participating as a school as lender must award any contract for the financing, servicing, or administering on a competitive basis.
- The program must offer loans with origination fees and/or interest rates that are lower than what is authorized in the HEA.
- Schools participating as a school as lender must have a cohort default rate of less than 10%, and must provide the Department of Education with an annual compliance audit.
- Schools must have met the school as lender requirements that are currently in place and made loans on or before April 1, 2006.
- The proceeds from loans made through the school-as-lender program that exceed administrative expenses must be directed to need-based aid.

Risk Sharing

- Lender insurance on FFELP loans is reduced from 98% to 97% for loans that are first disbursed on or after July 1, 2006, except for exempt claims (i.e., those where the borrower provided false or erroneous information) that will be insured at 100%.
- Guarantor reinsurance remains at 95%, except for exempt claims (i.e., those where the borrower provided false or erroneous information) that will be reinsured at 100%.

Deferment and Forbearance

- The military deferment is expanded to allow for up to 3 years of eligibility for borrowers on active duty during war, national emergency, or military operation, including National Guard duty.
- Mandatory forbearance agreements (i.e., medical/dental internship, income to debt ratio, national service) no longer have to be in writing.

Loan Rehabilitation, Discharge, Collection, and Wage Garnishment

- The number of consecutive payments for loan rehabilitation is reduced from 12 to 9 during 10 consecutive months.
- False certification as a result of identity theft is added as a reason for obtaining a loan discharge.
- Beginning October 1, 2006, guarantors are required to remit a portion of the collection fees and default consolidations equal to 8.5% of principal and interest to the Department of Education, thus reducing retention on those collections to 10%.
- Guarantors continue to be able to retain 18.5% collection fees on rehabilitated loans.
- Beginning October 1, 2009, guarantors are prohibited from retaining any collection fees on default consolidations that exceed 45% of the agency's total collections on defaulted loans.
- The maximum amount that can be deducted from a defaulted borrower's pay is increased from 10% to 15%.

Exceptional Performer

- Lenders and servicers designated as exceptional performers will receive 99% reinsurance.