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ISSUE BRIEF

Higher Education Act

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Prepared by:
Wes Huffman (whuffman@wpllc.net)
Michelle Cravez (mcravez@wpllc.net)

The federal government's role in higher education has continued to grow as the costs associated with postsecondary study continue to escalate. Tuition bills increasingly frustrate and/or overburden constituents and media scrutiny of college costs and student debt is at an all-time high—a recipe for increased engagement and focus on these issues from the legislative and executive branches of government.

The reauthorization of the *Higher Education Act* (HEA) is generally considered the vehicle for major changes to federal higher education policy. The legislation must be renewed regularly, and the current iteration expires on September 30, 2015. Unlike the *Elementary and Secondary Education Act* (ESEA), HEA programs must be reauthorized once the legislation has expired. However, the reauthorization process can take several years (the last reauthorization began in 2003 and was completed in 2008), and Congress will often pass short- to medium-term extensions of the law. From 2003-2008, there were at least 13 extensions of HEA. These straight forward extensions often occur at the last minute and pass with minimal debate.

HEA BACKGROUND

HEA is a complex piece of legislation, containing eight Titles with multiple parts, subparts and chapters. The latest reauthorization in 2008, the *Higher Education Opportunity Act*, came in at more than 1,100 pages.

Though each Title has its own constituencies focused on language updates, changes and internal debates—with Title II being of particular interest as it is the formal intersection of P-12 and higher education policy—Title I and Title IV receive the most attention during HEA reauthorization. Title I includes the law's so-called "general provisions," which can cover a wide range of activities affecting colleges and universities, and Title IV covers most federal student assistance programs, including Pell Grants and federal student loans.

Title IV

Put simply, Title IV is where the action is in HEA reauthorization. This Title covers the federal government's most significant role in higher education: the provision of grants and loans to students. In addition, nearly all reporting and regulatory requirements for colleges and universities are directly tied to Title IV, as the enforcement mechanism for these requirements is access to student aid funds.

There are undoubtedly numerous issues associated with higher education not directly associated with college costs, student aid and student loans, but these programs and the associated reporting and compliance requirements are the driving forces of the debate. At minimum, nearly all federal policy issues are tangentially related to the student aid and student loan programs as access to the Title IV programs is the federal government's ultimate leverage point in higher education.

Among the Title IV programs, student loans generally receive the most attention. Pell Grants are the bedrock of Title IV and all federal student aid, but, as an entitlement program available to all, the federal student loan programs touch the most citizens. The federal loan programs also deal with mandatory funding and offer politicians an avenue to "do something" on the incredibly complex issue of college costs, meaning they are often targets for reform for budgetary or political purposes.

CURRENT EFFORTS AT REAUTHORIZATION

Recent history suggests HEA reauthorization will be a long process. In the face of general skepticism, the Senate HELP Committee and House Education and the Workforce Committee are diligently working to develop a bill. Though progress on HEA seems largely contingent upon what happens with ESEA, staff members from both chambers continue to draft language in the hopes that action will occur. However, the bipartisan spirit of ESEA reauthorization efforts offers a glimmer of hope for HEA reauthorization.

In the House, the Committee on Education and the Workforce has solicited comments from higher education stakeholders and convened more than a dozen hearings on higher education issues starting in the 113th Congress. The series of hearings, in a nod to the driving issues behind HEA, were titled, "Keeping College Within Reach." Thus far, the House Education and the Workforce Committee has stayed away from the more controversial aspects of HEA and a white paper from last year on reauthorization priorities remains the best roadmap for what to expect from House Republicans. Education and the Workforce Committee Republicans are focusing on five main areas within reauthorization: simplifying and improving student aid, promoting innovation, increasing access and completion, empowering students to make informed decisions through improved data collection and financial literacy, and ensuring strong accountability and a limited federal role.

Though the ESEA conference will continue to take away from available time for HEA work, Committee Chairman John Kline (R-MN) and Higher Education and Workforce Development Subcommittee Chairwoman Virginia Foxx (R-NC) have both been pushing hard for an HEA bill in Committee. Although there have been more HEA reauthorization hearings in the Senate HELP Committee this Congress, the focus in the House has turned largely to drafting, at least among top Committee Staff.

Senate HELP Committee Chairman Lamar Alexander (R-TN) got right to work on HEA reauthorization. Even as the Committee's primary focus has been on ESEA negotiations, he and a bipartisan group of several senators, both on and off the Committee, introduced the *Financial Aid Simplification and Transparency (FAST) Act*, which aims to greatly simplify the Title IV Student Aid programs to something close to a "One Grant/One Loan/One Work-Study"

structure. The bill would also eliminate numerous questions on the FAFSA, reducing it to the size of a postcard.

Senator Alexander has indicated the FAST Act is simply a first step in a comprehensive reauthorization process. The HELP Committee staff also released three white papers on major issues in higher education they are seeking to address in this authorization—1) data transparency and consumer information issues; 2) accreditation issues; and 3) institutions of higher education sharing in the default and non-repayment risk associated with federal student loans.

Though simplification of the programs was an overriding theme as the HELP Committee Chairman began looking at HEA, Alexander has since broadened his focus to other aspects of the law. In a recent op-ed for the *Wall Street Journal*, he identified the following five steps the government could take to make the financing of higher education easier for students and families:

- *Allow students to use Pell grants year-round, not only for the traditional fall and spring academic terms, to complete their degrees more rapidly.*
- *Simplify the confusing 108-question federal student-aid application form and consolidate the nine loan repayment programs to two: a standard repayment program and one based on their income.*
- *Change the laws and regulations that discourage colleges from counseling students against borrowing too much.*
- *Require colleges to share in the risk of lending to students. This will ensure that they have some interest in encouraging students to borrow wisely, graduate on time, and be able to pay back what they owe.*
- *Clear out the federal red tape that soaks up state dollars that could otherwise go to help reduce tuition. The Boston Consulting Group found that in one year Vanderbilt University spent a startling $150 million complying with federal rules and regulations governing higher education, adding more than $11,000 to the cost of each Vanderbilt student's $43,000 in tuition. America's more than 6,000 colleges receive on average one new rule, regulation or guidance letter each workday from the Education Department.*

The Senate has hosted a series of HEA reauthorization hearings, including eight so far this session. Much like their work on ESEA, Senator Alexander and Ranking Member Patty Murray (D-WA) intend to produce a bipartisan bill. The HELP Committee has been divided into multiple bipartisan working groups to address issues of interest for individual Senators. The staff working groups will examine the following topics: accountability, accreditation, college affordability and financial aid, and campus sexual assault and safety.

Initially, Senator Alexander put forward an ambitious timeframe with potential action, or at least the release of legislative language, taking place in the spring. Senator Murray's office has been supportive of the bipartisan work, but has long suggested the timetable is unworkable. Given that all or nearly all HELP Committee members are expected to be appointed as conferees on ESEA reauthorization, time for thoughtful consideration of an HEA bill this year may not be in the cards.

However, Alexander has yet to officially move away from his plan for a Chairman's mark at the end of September with a markup as soon as October. Even under this unlikely timing scenario, a short-term extension will be necessary to allow Congress to complete its work later this year. However, given the pace of regular order in the Senate and a dwindling number of legislative days, any activity beyond the Committee level seems very ambitious. Should work on HEA delay into 2016, it runs into the conventional wisdom that major legislation cannot be passed in an election year. However, the three most recent reauthorizations of HEA defy this maxim—the reauthorizations of 1992 and 2008 were during a Presidential election year and the 1998 reauthorization took place in a Mid-Term election year.

Whenever draft legislation is ultimately produced, there are expected to be many similar themes in the House and Senate versions of HEA reauthorization. However, given the completely different make-up and nature of the House and Senate, the bills will include some significant differences. Both chambers are likely to agree on broad themes—i.e., the need for simplification in the aid programs; the need to contain the cost of college or make college "more affordable;" the need to improve teacher preparation programs; the need for accountability for federal dollars; etc.—but are likely to develop different ways to address these issues.

THE IMPACT OF THE ADMINISTRATION AND THE PRESIDENTIAL CAMPAIGN

The White House, both the current occupant and those seeking the office, also has a major role to play in federal higher education policy. As the process moves forward, the Administration will offer formal recommendations on HEA reauthorization and they remain in contact with Democrats on the Hill. Additionally, the 2016 campaign is likely to have a significant impact as well. Once the front-runners are fully determined, their proposals will likely serve as markers for their respective parties.

In his most recent State of the Union Address, President Obama included a proposal for free community college, which would come via federal grants to states that meet certain reform requirements. The proposal has no chance of passing in this Congress, and the Administration acknowledged as much when it released the plan and called it a "starting point" for a national debate on free community college.

The contenders for the Democratic nomination, including front-runner Hillary Clinton, have picked up on this proposal, or least some variation. Clinton and Senator Bernie Sanders (I-VT) have both put forward plans for, at minimum, "free" community college. Unsurprisingly, Sanders goes much further in his spending plan and Clinton has put out a detailed policy plan. Given the level of detail, should Clinton remain the front-runner for the nomination, her proposal is likely to serve as a marker for most Democrats.

Clinton's plan includes several proposals related to higher education from the past decade. The centerpiece of the "New College Compact" is federal incentives for states that commit to "free" community college and "debt free tuition" at public four-year colleges and universities. It also includes a call to lower interest rates on student loans, a refinance proposal, risk sharing, an expansion of tax credits and AmeriCorps, additional consumer protections for veterans, increased transparency for all colleges, and further regulation of the proprietary sector.

Beyond the proposals on free community college, the current activities by the Administration may also be curtailed via HEA reauthorization or an appropriations bill. The Department has exerted its regulatory authority quite often on higher education issues in the Obama Administration, a fact which has rankled many critics and Republicans. Many Republicans in Congress (and some Democrats) are concerned with the Administration's efforts to further regulate proprietary institutions. Additionally, a plan for rating colleges has been widely panned by the higher education community and legislators alike.

In 2013, President Obama laid out a new plan for "**Making College Affordable**," Originally, the Obama administration's plan called for a federal ratings system to rate colleges and universities and tie federal financial aid to their performance ratings. From the start, this idea faced significant backlash and criticism. Since the initial announcement, the Department has delayed releasing a draft of the ratings system several times, and recently announced that instead of a ratings system, the Department will provide students and families with better tools to sort and compare colleges themselves.

The Department has said new websites will soon be published that will allow the public to access federal data and use a "college ratings tool." There are already federal websites available to consumers to navigate the college market, but the new tool will try to present existing data in a more user-friendly fashion and may include new data that has not yet previously been provided for students and families, such as earnings after graduation. The new tool is expected in August or September.

CONCLUSION

HEA reauthorization appears increasingly likely to slip into 2016. Higher education issues, particularly those related to college costs and student debt, are likely to remain a hot topic on Capitol Hill and are already major issues highlighted in the 2016 presidential campaign. Debate and discussion over various campaign proposals, additional hearings, and multiple pieces of legislation will continue to lay the groundwork for HEA reauthorization.

Issues related to student loans and college costs are likely to continue to grab the most attention and scrutiny with a growing number of Senators and Representatives from both parties reaching consensus on the need for reform.