The 114th Congress—A Community College Perspective

As is always the case with a new Congress, the incoming 114th presents challenges and opportunities for community colleges. The shift in party control in the Senate along with historic levels of Republican House representation likely presages a tighter funding environment, but one in which some long-held AACC policy objectives may be achievable. Both Congressional Republicans and President Obama share an interest in legislative accomplishment.

In recent years, while higher education writ large has taken some lumps, community colleges have made tremendous strides in status and stature. This growing prominence starts with increasing public understanding that a college education is generally essential for economic security (without guaranteeing it), and that community colleges are the most accessible means to this end. The steep increases in tuitions at 4-year public institutions, particularly at the height of the last recession, have highlighted the affordability of community colleges. In addition, the deep recession of 2007–09 focused attention on the colleges’ ability to provide an economic lifeline to individuals either thrown out of work or at risk of losing it. The recession also sparked a keener appreciation of the tight relationship between the colleges and local businesses. Yet another reason for community colleges’ increased prominence was the Obama administration’s “American Graduation Initiative,” with its $8.8 billion, 10-year proposed investment in community colleges. The $2-billion TAACCT grant program that emerged from that proposal sparked new partnerships and embodied program innovations that kept community colleges in the minds of policymakers. Lastly, the reforms taking place on campuses across the country have compelled the attention of legislators, who seem to be gaining a more nuanced understanding of the institutions.

But shadows may be gathering around community colleges’ day in the sun. Public attention, particularly media attention, inevitably waxes and wanes. And the economy finally shows signs of sustained and broad-based vitality, which in turn lessens the attention being paid to job training at community colleges. The focus on community colleges has also revealed some of their shortcomings, particularly since completion rates have barely budged. Also, Congress appears intent on addressing the rewrite of the Elementary and Secondary Education Act (better known as “No Child Left Behind”) early in the 114th Congress, which will draw focus away from postsecondary education. All these factors underscore the need for aggressive efforts to publicize in Washington the contributions of community colleges and the tough if essential work of reform that institutions are embracing.

At this moment, community colleges are advantaged by the presence of engaged and thoughtful lawmakers in key positions. This includes Sen. Lamar Alexander (R-TN), the new chairman of the Senate
Health, Education, Labor, and Pensions Committee (HELP), as well as the committee’s ranking member, Sen. Patty Murray (D-WA). The incoming chair of the Senate Appropriations Committee, Thad Cochran (R-MS), is a longstanding friend of community colleges. On the House side, community colleges will benefit from the continuity represented in House Education and Workforce Committee Chairman John Kline (R-MN), as well as Virginia Foxx (R-NC), chairperson of the Subcommittee on Higher Education and the Workforce.

This document provides an overview of some of the most important issues on which community colleges will likely be engaged in the coming months, including key regulatory items. It’s clear that AACC will continue to need to work closely with its member colleges and other stakeholders, including students, trustees, and administrators.

FUNDING

Funding legislation may provide the greatest challenges for community colleges in the 114th Congress. Republican congressional control will likely translate into tighter constraints on annually appropriated domestic spending, the 17% of the budget that includes a huge spectrum of programs, almost all of which have active advocates. (Education and training spending comprises 15% of this category of spending.) This segment of the budget has borne the brunt of spending reductions in recent years, offset somewhat by some significant increases provided through the American Recovery and Reinvestment Act (a.k.a. the 2009 “stimulus” bill), and some much smaller increases secured primarily by Senate Democrats. The reality is that these domestic programs, regardless of their substantive and political appeal—many of them, and certainly higher education appropriations, can claim to be true “investments”—lack the collective clout and preferential budgetary treatment of Social Security, Medicare, and Medicaid. These three entitlement programs now consume almost half of all federal expenditures and have “mandatory” spending status.

Non-security appropriations also face the specter of further cuts under sequestration, a feature of the 2011 Budget Control Act. Under the sequester, overall appropriations allocated to both non-security and defense programs will be reduced for the FY 2016 funding cycle, i.e., the overall appropriations “pie” will be shrunk. The smaller pie will make competition for resources between programs such as health research, the environment, housing, administration of justice, and NASA all the more intense. Although discussions continue about temporarily removing or lessening the sequester, in no small part because the sequester includes military spending, consensus has not jelled around the concept.

To provide just a few numbers, non-defense discretionary (NDD) spending is projected to fall to its lowest level as a share of gross domestic product (GDP) on record in 2016, with data going back to 1962, and will continue to fall thereafter. By 2021, if sequestration stays in place, funding for NDD programs will be 18% below the 2010 level (adjusted for inflation).

The good news is that the American public consistently ranks education as a top budget priority. Deep cuts to education simply will not pass muster with the bulk of Americans, as previous attempts to substantially reduce this spending, particularly for student aid, have met with stiff resistance. The recent
high profile, bipartisan push to avert a student loan interest rate increase underscores the salience of student aid issues.

AACC will continue to press for adequate spending for the array of programs that benefit member campuses and students. Priorities include institutional aid programs such as Strengthening Institutions, Hispanic-Serving Institutions and Predominantly Black Institutions, TRIO and GEAR UP, the Carl Perkins Career and Technical Education Act, NSF’s Advanced Technological Education program, and the Workforce Investment and Opportunity Act (WIOA). WIOA can be expected to have some difficult sledding in the funding area, as this act historically has been the target of Republican budget cutting. Hopefully last year’s bipartisan WIOA reauthorization will carry with it greater funding support.

PELL GRANT PROGRAM

The Pell Grant program remains of paramount importance to community college students. The program currently assists 3.2 million community college students each year, providing $10.4 billion in assistance overall in the 2013–14 award year. (To place this funding into context, the Pell Grant funds received by community college students total approximately one fifth of the entire annual expenditures by all of the nation’s community colleges.) Community colleges routinely receive approximately one third of all program funds. Institutions, too, have become more dependent on Pell Grants to the extent that tuition is an ever-growing source of institutional revenues. According to the College Board, tuition comprises 36% of the average college’s revenues, compared to 22% a decade ago.

The maximum Pell Grant is scheduled to increase $120, to $5,850, for the award year that begins July 1. Of note is the impending restoration of funding for “ability-to-benefit” (ATB) students (i.e., those who lack a high school diploma or G.E.D.) who are enrolled in career pathways programs. This partial reversal of the elimination of ATB eligibility in FY 2012 was a significant political achievement, achieved in late 2014.

The Pell Grant program routinely experiences funding surpluses as well as shortfalls, since a fixed amount of appropriations are provided each year while the precise demand for the program cannot be predicted. After absorbing massive shortfalls in the wake of the last recession, when college enrollments surged and students became financially needier, the program is now experiencing a small surplus. (In FY 2011 and FY 2012, the shortfalls drove program eligibility limitations, to reduce expenditures.) This surplus will evaporate in FY 2017 and appropriators will need to find significant new resources to keep the program whole.

In the upcoming reauthorization of the Higher Education Act (HEA), AACC will be working to restore the year-round Pell Grant, which was eliminated in 2011, as well as full eligibility for ATB students. The association is also looking for politically viable proposals—meaning not costing too much—to extend eligibility to certain short-term programs as well as allow some students who already have a bachelor’s degree to receive grants in selected circumstances. Efforts also may be needed to ensure that online education students have the same Pell eligibility as students taking classes in traditional settings.
HIGHER EDUCATION ACT REAUTHORIZATION

The Higher Education Act (HEA) reauthorization stands to be the most important piece of legislation addressed by the 114th Congress. The HEA includes all of the key student financial assistance programs, along with TRIO, GEAR UP, and institutional aid (Hispanic-Serving Institutions, Strengthening Institutions, etc.), and it also becomes the vehicle through which the federal government exerts its primary control over institutions of higher education.

The timetable for reauthorization has not been established. The reauthorization of the Elementary and Secondary Education Act will probably preoccupy the House and Senate education committees in the first part of 2015. However, HEA policy development will no doubt continue, building upon the considerable work done in the 113th Congress. Both the House and Senate committee leaders have indicated that they hope to have HEA legislation drafted by the late spring or shortly thereafter.

Although it will be difficult to complete activity on reauthorization in the next Congress, given the complex and politically complicated aspects of the legislation (particularly in the face of a presidential election), it is certainly not beyond the realm of possibility.

AACC has developed a comprehensive reauthorization position and has an ongoing task force of CEOs working on the issues. AACC’s proactive agenda can be grouped into a few major categories:

- Establishing accurate measurements of institutional and student success, informed in large part by AACC’s Voluntary Framework of Accountability (VFA). Emphasis will be placed on tracking students for appropriate lengths of time; including transfer students in all graduation rate calculations; and incorporating workforce outcomes into information about higher education programs.

- Maintaining a vital Pell Grant program for needy students, and redressing previous eligibility limitations as described in this document.

- Reforming student loan programs—limiting student borrowing where unadvisable, protecting colleges from inappropriate sanctions, strengthening federal servicing of loans, and simplifying the repayment process.

Inevitably, however, a large portion of any HEA reauthorization is consumed by defending against proposals that would be harmful to students or institutions. And there, the possibilities are endless. One set of proposals that is threatening to community colleges would ask colleges to put some “skin in the game,” i.e., cost-share on student loan defaults or participate in the cost of federal student aid programs in some other fashion.

CARL PERKINS ACT REAUTHORIZATION

The Carl D. Perkins Act Career and Technical Education Act is scheduled for reauthorization in the upcoming Congress. Although funding for the law has stagnated, it remains a critical source of support
for community colleges, and for secondary schools as well, a fact that explains in part the program’s political longevity and broad-based support.

The Perkins Act has less prominence than other education laws and is behind the ESEA and the HEA in the legislative queue. However, because it is generally less controversial than those larger laws, there remains the possibility that it will be turned to in the event that progress on those other reauthorizations stalls. The activity that has taken place on the Hill to date regarding Perkins authorization has been bipartisan in both the House and Senate. The primary policy initiative in this area so far has been the Administration’s Blueprint for Reform of the Perkins Act. Many stakeholders agree with some of the larger ideas put forth in this paper, including improved accountability, greater relevance to Perkins-funded programs to industry, and a continuation of the progress made in the previous reauthorization to focus Perkins support on integrated programs that prepare students for high-skill, high-demand occupations. Some of the details of the Administration’s blueprint, including intrastate funding distributed on a competitive basis and only to secondary–postsecondary consortia of institutions have raised concerns, on the Hill and off.

For its part, AACC seeks to effect improvements to the program along the lines laid out in the Blueprint, but sometimes through other means. Instead of competitive funding only to consortia, there should be strengthened requirements for institutions to show the quality of its programs and their relevance to industry within the current, formula-driven funding framework. Accountability measures should look to the VFA for proper metrics for community colleges, and be aligned with similar measures in other federal programs, such as WIOA.

**TITLE IX AND CAMPUS SEXUAL ASSAULT**

Last year, campus safety and the vulnerability of college students to sexual assault received sustained and intense attention from Congress, media, students, advocacy groups, and the broader public. This debate has had the positive effect of highlighting a very real problem as well as the complications of deep federal involvement, including a bevy of extremely complicated and delicate laws and regulations. Community colleges are not particularly associated with the issue of sexual assault on campuses, as it is generally linked to primarily residential institutions, but they nevertheless fall under the same federal requirements as all other institutions.

There is every indication that vigorous Congressional interest in this area will continue into the 114th Congress. In all likelihood, attention will focus on successor legislation to S. 2692, the Campus Accountability and Safety Act, introduced in the last Congress by Sen. Claire McCaskill (D-MO) and supported by four senators of each party. That legislation required a variety of new efforts by institutions to address sexual violence, including annual campus climate surveys, mandatory confidential advisers, required memoranda of understanding with law enforcement agencies, and more gathering of data about incidents. Substantial penalties, in many cases 1% of total institutional revenues, would be levied for failure to comply. AACC submitted
comments to the sponsors of the legislation, trying to communicate the unique challenges that the current federal engagement in this area presents for institutions.

The primary sponsors of the Senate legislation have expressed a willingness to revisit details of the legislation, while not abandoning their desire for an enhanced federal role. The challenge for our community is to work within a regulatory framework that, again, was not particularly designed with the nature and needs of community colleges in mind.

It is possible that legislation in this area will be incorporated into the reauthorization of the Higher Education Act when that legislation is debated, although given the timetable for that legislation, it is also conceivable that it could be moved independently. Congressional offices beyond those sponsoring the legislation, particularly those who are represented on the education committees, have been delving deeper into these issues, and a thorough debate is expected. As this debate continues, AACC will also be working in concert with its member colleges to foster compliance with the current requirements.

REGULATIONS

Administration’s Postsecondary Institution Ratings System

Months later than originally anticipated, in late December the Obama Administration released its draft college ratings system. The draft, labeled a “framework,” was less advanced than many had expected, as the plan is to have it in place for the 2015–16 academic year. The draft did outline a series of variables that it is considering in developing the rating system, and a number of these would represent new information about postsecondary institutions, some of it valuable from a community college perspective. The plan does envision including transfer information, a fundamental AACC priority, as well as workforce information.

AACC does not support a federal ratings system, both because it is not an appropriate role for the federal government and because it will not be relevant to the bulk of community college students, who do not comparison shop between different community colleges, or other institutions. AACC is planning on submitting comments on the draft ratings system. The ratings system has also drawn the ire of both parties in Congress, and, as with the gainful employment regulations, may be subject to Capitol Hill efforts to bar its implementation.

Gainful Employment

The Administration’s gainful employment (GE) regulations will take effect July 1 unless legal or legislative action intervenes. Congress may act to nullify these immensely contentious regulations, although the route to enactment, given the likely staunch opposition of President Obama, is problematic. Community colleges have reason to be both pleased and distraught at the final rules. On the one hand, the regulations are likely to have virtually no impact on programmatic eligibility at community colleges, while they will have a harsh impact at many for-profit institutions. On the other
hand, community colleges will have to engage in extensive, costly, and in many cases meaningless reporting requirements. Well under half of all community college programs will have performance data disclosed because of the small number of students who enroll and complete those programs. Given this, AACC will be taking a hard look at supporting legislation that would bar the U.S. Department of Education from implementing the rules.

**Workforce Innovation and Opportunity Act**

The Obama Administration is about to issue proposed regulations implementing the Workforce Innovation and Opportunity Act (WIOA), the successor to WIA. Community colleges have a number of issues at stake in this process. These include the extent to which community college CEOs will have automatic representation on local workforce investment boards; the treatment of workforce credentials as counting for success in the WIOA system; the amount of information that community colleges will have to gather in order for programs to be placed on the eligible provider list (a carryover issue from the previous WIA statute); and the ability of students enrolled in longer-term training programs to be able to count as making appropriate progress. AACC has commented on the pre-notice of proposed rulemaking process and will submit formal comments on the proposed rules later this year.

**TAX POLICY**

While the role that the tax code plays in helping federal higher education does not share the prominence given to the student aid programs, tax policy remains of key interest to community colleges and their students. In particular, the American Opportunity Tax Credit (AOTC), which provides up to $2,500 of assistance annually and is currently claimed by more than 11 million individuals each year, is a major financing source for community college students. At the same time, AACC has long sought changes in the AOTC, focused on ensuring that low-income students receive benefits along with more affluent students.

The push for tax reform in the 113th Congress carried with it important positive developments for AACC’s agenda in this area. Legislation passed in the House of Representatives ensured that most community college Pell Grant recipients would receive the credit (currently the bulk of them do not, due to an eligibility formula that works against students attending low-cost institutions), and contained other provisions designed to target greater assistance to financially needier students. At present, many upper-middle class and even wealthy students receive assistance. AACC had strongly advocated for this bipartisan House legislation, which was set into motion by the tax reform initiatives of the House Ways and Means Committee, and, in particular, Chairman Dave Camp (R-MI). Unfortunately, the legislation was not picked up by the Senate.

As the 114th Congress gets underway, it is unclear what type of, if any, tax reform efforts will gain momentum. Both House and Senate tax writing committees will have new chairs—Rep. Paul Ryan (R-WI) and Sen. Orrin Hatch (R-UT). At this time, it appears that more immediate attention will be given to the tax code’s business provisions. However, there is longstanding, bipartisan interest in simplifying and likely consolidating the tax provisions concerning higher education financing, and the work done in the
113th Congress will undoubtedly serve as a frame of reference for any efforts undertaken. Therefore, there is reason for optimism about the prospects of significant progress in this area.