Higher Education Act Reauthorization/PROSPER Act

In early June, the critical Higher Education Act (HEA) reauthorization process diverged in the two chambers. In the House, Rep. Virginia Foxx (R-NC), chair of the House Committee on Education and the Workforce, continued to push aggressively to shepherd HEA reauthorization legislation to the House floor. However, as of this writing, it is not clear if she has the votes. At the same time, Sen. Lamar Alexander (R-TN), chair of the Senate Committee on Health, Education, Labor and Pensions, publicly announced that his panel will not be producing an HEA reauthorization bill this year. This amounts to declaring the process dead for this Congress.

House Action/PROSPER Act

Since late fall, most of AACC's reauthorization efforts have been directed towards the House HEA legislation, formally known as the Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act, H.R. 4508. PROSPER is an explicit attempt to "reform" higher education through altering the HEA. Chairwoman Foxx has repeatedly stated her belief that higher education is failing in key respects, particularly concerning its role in providing the workforce needed by the nation's businesses. The PROSPER Act addresses this, in part, by opening up the HEA to new providers and breaking down some of the existing constraints on programs that Title IV supports. These changes will clearly benefit for-profit colleges and, to some extent, community colleges as well.

Chairman Alexander's recent dramatic announcement about stymied Senate HEA action casts additional doubt on whether the House will vote on the PROSPER Act. Many observers believe that a vote for the House HEA bill will be a difficult one for some Republican members and unlikely to garner any support from Democrats. The legislation was reported by the House education committee on a partisan basis. The Democrats have indicated that they plan to offer an alternative proposal if and when the legislation comes to the House floor.

AACC does not support the PROSPER Act, which has been actively opposed by most organizations representing traditional higher education institutions, students, veterans, and others. However, the legislation contains a variety of changes that will benefit community colleges and their students. Some of these changes include:

- Programs that are 300 to 599 clock hours in length or their equivalent (e.g., one-third to two-thirds of an academic year) would now be eligible for Pell Grants and other Title IV student aid programs. New Pell Grant support for shorter length programs has been one of AACC's top reauthorization priorities. (Some proposed bills would cover programs as short as 150 hours or their equivalent.)

- A $300 annual Pell Grant "bonus," not indexed to inflation, would be provided to students who take 15 credits a semester, and 30 for a full academic year. While this would benefit many students, others who cannot manage the additional course load will not be eligible for the additional Pell bonus.

- Competency-based education (CBE) is boosted through a new definition clearly intended to expand its coverage under the Title IV programs but not beyond postsecondary institutions. The detailed language is designed to ensure that any federal funding for competency-based programs covers only education that is actually delivered by an institution of higher education and that the competencies are measured accurately. Accreditors would be given substantial responsibility in this regard.

- All students who lack a high school diploma or its equivalent would become eligible for Title IV provided that they successfully take six credits at an institution. This "ability to benefit" provision was terminated in the FY 2012 funding legislation and restoring it remains a top AACC priority.

- Another provision that AACC has strongly supported would give student financial aid officers discretion to reduce loan maximums for broad categories of students. The language is not quite as expansive as AACC has sought, but would go far to give colleges greater control over borrowing by students under various circumstances. Grounds on which loans could be categorically limited include student debt levels that are excessive for program graduates (using Bureau of Labor Statistics regional average starting salary data); enrollment intensity (less than full time); credential level (degree or certificate); and year of program.

- A new graduation rate calculation for community colleges that reflects the Voluntary Framework of Accountability (VFA) metric of 300% of the "normal time" to completion.

- A new grant program to grow apprenticeships, especially in industries where they are not currently prevalent. Though not limited to community colleges, they would likely be the major beneficiaries of this initiative.

Unfortunately, the legislation has some serious shortcomings. These include:

- *Risk-Sharing/New "Return of Title IV" Provisions***.** The bill would require colleges to return substantial portions of the federal financial aid received by students who do not complete a term or other academic period. These provisions might result in requiring community colleges to return two to three times more funds than under the current "R2T4" provisions. This change would drain essential funds from community colleges, which have the fewest resources of any sector of higher education and cater to the hardest-to-serve populations. Despite its avowed goal, the provisions do not necessarily promote student completion, and need to be rethought.

- *Elimination of Title III-A***.** The Strengthening Institutions Program (Title III-A of the HEA) is a community college mainstay—it helps eligible higher education institutions expand their capacity to serve low-income students by improving their academic quality, institutional management, and fiscal stability. Funding is targeted at institutions that have relatively few resources and serve high proportions of low-income and historically underrepresented populations. Awards are subject to intense competition and driven by local priorities; only a small percentage—often less than 20%—of applications are funded. The program has reportedly been eliminated to offset the cost of the new apprenticeship program, but elimination of Title III-A is not acceptable.

- *Student Aid Cuts***.** The legislation would eliminate subsidized student loans and the Supplemental Educational Opportunity Grants (SEOG) program. Nearly 400,000 community college students receive SEOG awards each year, helping to reduce their need to borrow. One out of every seven subsidized loans are taken out by community college students. The proposed changes to the loan programs increase the cost of higher education by eliminating the in-school interest subsidy for qualifying students and by increasing the cost of repayment through a new Income Dependent Loan repayment scheme. Public Service Loan Forgiveness also would be eliminated.

- *Retention of Current Ban on Creation of a Unit Record Data System/Limited Data on Workforce Outcomes***.** The legislation fails to overturn the current ban against creating a national unit record data system. Consequently, comprehensive and accurate outcome measures data, including completion rates across higher education and relevant workforce data, cannot be generated and made available to students and the public. This belies the expressed intent of the legislation, to increase transparency and better align education with workforce needs. Furthermore, the lack of a unit record data system ultimately adds to institutional burden and cost.

- *Removal of Program Integrity Protections***.** The legislation eliminates a series of regulations that have been designed to ensure against fraud and abuse in the student financial aid programs. A number of these protections were designed to ensure that for-profit institutions do not exploit students. These safeguards, such as the "90/10 rule," should remain in place. The stark reality is that for-profit institutions are responsible for most instances of Title IV program abuses. The legislation also places for-profit colleges on the same statutory plane as non-profit institutions through a "single definition" of institution of higher education. Finally, the HEA's gainful employment language (GE) would be eliminated. GE regulations promulgated by the Obama administration have been extremely controversial within the for-profit sector, and were quite burdensome and costly to many community colleges. However, they clearly resulted in many subpar for-profit programs closing.

Senate HEA Reauthorization Action

As mentioned, the Senate HELP committee will not be acting on reauthorization legislation this year, despite it being a top priority for HELP Committee chairman Alexander. After a series of hearings in the last Congress, the Committee held five more early this year (with three community college witnesses), seeming to set the stage for the introduction of a bill. However, bipartisan progress on the legislation, which is necessary for it to move through the full Senate, was not forthcoming. Speculation abounds for this lack of comity on the HEA reauthorization given the bipartisan nature of the ESSA reauthorization process. Committee Chairman Alexander presented his view on the subject by saying that, "the Democrats won't do it." An alternative view has been expressed by the Democratic leadership on the committee, who say that they were ready to continue working on the legislation.