AACC Summary of Major Provisions of College Affordability Act

On Tuesday, October 15, House Education and Labor Committee Chairman Bobby Scott (D-VA) introduced H.R. 4674, comprehensive Higher Education Act (HEA) reauthorization legislation, the College Affordability Act (CAA). Below is a summary of some of the major provisions from the community college perspective, in the order in which they appear in the bill. Please note that the summary is not inclusive of all items of interest to community colleges.

TITLE I:

Gainful Employment

The legislation codifies into law major features of the final gainful employment regulation promulgated by the Obama administration but later rescinded by President Trump. Specifically, it focuses on debt-to-earnings (D/E) ratios. The bill leaves key particulars to the Secretary, including the cohort for which the D/E ratio is calculated, how debt and earnings amounts are calculated, and the D/E ratio threshold that a program must meet to maintain eligibility. The bill also authorizes the Secretary to determine additional eligibility criteria beyond the D/E ratio and institutional disclosures. The programs subject to the gainful employment regulation would remain the same as in current law. This means that, among non-profit institutions, community colleges would bear the overwhelming brunt of this provision.

Postsecondary Data System

This bill creates a federal unit record data system, a longstanding AACC priority. The system would include information on program of study, transfer, earnings, employment, and post-graduate education. It would not include transcript level data and information on health, disciplinary actions, grades, exam results, and religion. The student record system would eliminate the need for institutions to report some of the student- related information now collected through the Integrated Postsecondary Education Data System (IPEDS) surveys. However, institutional level data in areas other than student outcomes will still be collected through IPEDS.

Colleges would now be required to report information on student services, marketing, recruitment, advertising, and lobbying. After going through a specified regulatory process, the Secretary of Education could collect additional data elements, an option that AACC finds problematic. The data collected could be used by institutions for research purposes, subject to privacy conditions consistent with FERPA.

TITLE III:

Institutional Aid - Strengthening Institutions

The Strengthening Institutions program is changed to allow institutions that support endowment funds with Title III (and V) funds to use income from those funds for student scholarships. The Title III-A authorization increases to $150 million.

TITLE IV:

Federal Pell Grants

Maximum Award

The Pell Grant maximum award increases by $500 in award year 2021-22 through "mandatory," guaranteed funding, and automatically increases by the amount of the Consumer Price Index in award years 2022-23 and thereafter. The lifetime eligibility cap is extended from 12 to 14 semesters (or its part-time equivalent), a longstanding AACC priority.

Postbaccalaureate Students

Pell eligibility is extended to otherwise eligible graduate and professional students in their first post-baccalaureate program—a dramatic change from current law. To qualify, students must have received a Pell Grant as an undergraduate and have unused eligibility (i.e., have used less than 14 semesters or its equivalent). They can then receive Pell as post-baccalaureate students up to the 14 semester limit. This change could add substantial cost to the Pell Grant program.

Short Term Programs

New Pell Grant eligibility is established for credit and non-credit programs between 150 and 600 clock hours, in length of at least 8 weeks. While in concept this is a very positive development and reflects one of AACC's top reauthorization priorities, in practice the eligibility requirements may prevent many community college programs from qualifying. Most of the provisions in this section come from the bi-partisan JOBS Act that has been introduced in both the House and Senate.

As in the JOBS Act, programs would need to be listed on the WIOA eligible provider list to qualify, and non-credit programs would need to be subsequently articulated into credit programs at the institution. In addition, in order for the program to qualify, 6 months after completing a program, students would be required to earn, on average, more than the average high school graduate—currently approximately $37,000. (Note that this figure includes all those individuals for whom a high schoold diploma is their highest educational level, but who may have been employed for decades.) State and regional variations may be taken into account in setting the comparisons.

Programs must also meet the completion and earnings requirements (as modified by the CAA) that programs of 300 to 599 clock hours in length must currently meet in order to qualify for federal loans. The programs must also pass the CAA's gainful employment requirements. Programs must be part of a career pathway as defined in the Workforce Innovation and Opportunity Act (WIOA), which in turn requires a program to offer or connect to a GED program. The Secretary must approve programs and can take up to 180 days to do so. The Secretary must re-approve programs every 3 years.

Incarcerated Students

The bill removes the 1994 ban on Pell Grant eligibility for individuals incarcerated in federal and state prisons, another top AACC priority. Programs must meet several requirements. Institutions must be approved by the Secretary and their accreditors. The institution must have had no adverse accreditation actions in the last 5 years. Credit programs offered at the prison must confer the same credit as programs offered at the institution. No distance education programs are eligible except under limited

circumstances. The institution must provide the incarcerated individual with certain information about the course of study. This includes all "restrictions related to employment" in federal law and the state laws where the facility is located and each state where the individual permanently resides for each occupation for which the course of study prepares students. Program eligibility must be renewed at least every 5 years.

There are also specific restrictions on direct charges. No direct charges to students are allowed for: (1) any remaining cost of attendance beyond the amount of the Pell Grant; (2) any amount beyond the expected family contribution for students who are not eligible for Pell Grants; or (3) accommodations for disabled students. As drafted, the provisions above may also apply to programs offered to individuals incarcerated in local and county jails that are offered at the institution of higher education, though this is not likely the authors' intent.

Miscellaneous

There are other Pell Grant provisions worthy of mention. The CAA moves into the Pell Grant program a previously separate scholarship program for Iraq and Afghanistan veteran's dependents. Under a new Pell Grant fraud prevention provision, the Secretary is required to report to Congress annually on "unusual enrollment history" – essentially identifying students who meet the description of "Pell runners." The report must name each institution that has had more than 2% of total applicants flagged as part of an unusual enrollment history.

Federal Supplemental Educational Opportunity Grants

The SEOG institutional allocation formula is modified to generally benefit community college students. Over a period of 5 years, an institution's allocation is increasingly based on its "fair share" amount, rather than the current distribution, which heavily favors long-standing historical program participation. The "fair share" amount is based on an institution's share of the Pell Grant funds awarded in the previous year as well as another indicator of undergraduate need. No institution with fewer than 7% of Pell-eligible undergraduates in 2 out of any 3 fiscal year periods would be eligible to receive a fair share amount.

Emergency Financial Aid Grant Program

A new emergency grant program is created to cover unexpected student expenses. The federal share of the grants is 50 percent, with institutions providing an equal match, though HBCUs and all MSIs would not have to provide the match. An application must be submitted with information on how "emergency" is defined, how the grant aid would be administered, and how the institution would comply with other program requirements. The institution must assure that grants are made for financial emergencies that directly challenge the students' ability to continue and complete their course of study, including loss of employment, medical conditions, food insecurity, and other reasons. Institutions with "at least 30 percent" Pell Grant recipients would receive priority. (The average community college hits this threshold.) The maximum individual grant award is $750 and the maximum total grant amount a student may receive is $2,000. Students enrolled on at least a half-time basis and meeting satisfactory academic progress in an institution that is eligible for the SEOG program are eligible for grants.

Child Care Access Means Parents in School

The maximum grant is increased to 2% of an institution's Pell Grant allocation, up from 1%. The CAA would add a new "Performance Bonus," under which institutions that have exceeded their performance levels in their grant for at least 3 years and have demonstrated need could receive a bonus up to 20% of the annual grant amount. Institutions would use bonuses for the same purposes as their base grants. The Secretary may award bonuses if the amount appropriated for the program exceeds $140 million. (The current appropriation is $50 million.) Institutions must provide assurances that child care facilities funded by the grant meet one of several indicators of quality, a somewhat more stringent provision than the current requirement that facilities meet all state and local licensing requirements.

Jumpstart to College

Dual enrollment programs would be supported through a new $250 million program. Grants would be made both to partnerships developed between non-profit postsecondary institutions and local educational agencies as well as states. At the institutional level, priority would be given to programs that serve high percentages of low-income students. Students enrolled in supported programs could not be charged tuition. Institutions receiving funds could be required to pay an increasing match, starting at 20% and increasing to 50% by the sixth and final year of the award. A variety of specific conditions are placed on the grants. Also, funds could not supplant existing dual enrollment expenditures by states. The state portion of the program is designed to stimulate broader establishment of dual enrollment programs. AACC has supported the legislation on which this new program is based.

Community College Student Success Grants

The CAA authorizes $1 billion annually for new community college student success grants. The CAA provisions come from stand-alone legislation previously introduced by Rep. Grace Meng (D-NY). The program is modeled on the Accelerated Study in Associates Programs (ASAP) that originated in the City University of New York community colleges. The CAA program would provide grants to colleges to help them increase the number of students who graduate within 150% of the "normal time" or transfer. The program would fund planning and implementation grants for institutions to conduct community college student success programs. Institutions would need to contribute a cash match that would increase over the course of the grant. Only full-time students are eligible to participate in the program, which would fund any tuition and fees not otherwise covered by financial aid, as well as intensive counseling and tutoring services.

General Student Assistance Provisions

Remedial Education Grants

Five-year, competitively awarded grants of not less than $500,000 are authorized to help institutions improve remedial education programs. To qualify, programs must use 2 or more assessment measures in placing students in remedial education. ED is to use an independent evaluator to choose among applicants and evaluate the program. Participants selected for evaluation must provide detailed information to the evaluator on students who receive services under the grant, so that program results can be generated. Remedial education students supported through this program are eligible to receive Title IV aid for 2 years, rather than 1 under current law for other students. Institutions must have a plan for sustaining the program when federal funding lapses.

Federal Family Education Loan Program

Cohort Default Rates

The cohort default rate (CDR) calculation and metrics for maintaining student aid eligibility is changed by taking into account the institution's student borrowing rate, a longtime AACC priority. Specifically, to produce a new "adjusted" CDR, the default rate would be multiplied by the percentage of students who take out federal loans. The thresholds that institutions must not exceed in order to maintain Title IV eligibility are correspondingly adjusted. Institutions that exceed an adjusted CDR of 20% for 3 straight years risk losing eligibility (as opposed to the 30% non-adjusted CDR cap in place now). The CAA also introduces longer-term adjusted CDR snapshots. Institutions that have an adjusted CDR above 15% for 6 straight fiscal years or 10% for 8 consecutive fiscal years risk losing aid eligibility. For the longer time periods, however, institutions would only lose eligibility if they exceed the adjusted CDRs and the Secretary determines that they have not made adequate progress in meeting standards for student achievement established by their accrediting agency.

The new provisions also lay out a scheme by which a category of educational programs may maintain eligibility if it falls below the relevant adjusted CDR, even if the institution as a whole fails the CDR test. Categories are basically defined as degree and non-degree programs. For example, an institution's degree programs may remain eligible if their adjusted CDRs fall below the relevant threshold, even if the institution's overall adjusted CDR, based on its degree and non-degree programs, exceeds the threshold.

Income-Based Repayment

The CAA moves to one income-based repayment plan for loans made after July 2021 or for current borrowers who elect to enroll in IBR after that time. The repayment amount is set at 10% of the difference between the borrower's income and 250% of the poverty line for a given family size. That percentage is reduced by 10 percentage points for every $1,000 in income above $80,000 for a single borrower and for every $2,000 above $160,000 for a married borrower. Any remaining loan balance would be forgiven after 20 years of repayment. Monthly payments under this plan may exceed what they would be under the standard repayment plan for higher income borrowers. Unpaid interest would not be capitalized.

Fixed Repayment Plan

The CAA modifies the standard repayment plan to link it to the amount borrowed. Repayment for loan balances below $20,000 would be made over 10 years, balances between $20,000 and $30,000 would be repaid in 15 years, between $30,000 and $40,000 over 20 years, and those over $40,000 could be paid back over 25 years. Borrowers may elect to pay in shorter periods than called for by their relevant plan.

On-time Repayment Rates

For cohorts of 30 or more borrowers, the on-time repayment rate is defined as the percentage of borrowers who have been in repayment for 3 years and who have made at least 90% of their monthly payments during those 3 years (i.e., 36 payments). For annual cohorts under 30, the rate would be determined based on the percentage of borrowers who entered their 3rd year of repayment in any of the 3 most recent fiscal years. Loans would be attributed to each institution that a student attends. An

institution is not subject to sanctions if its borrowing (“participation”) rate is less than 20% for any of the 3 most recent fiscal years. This rate is defined as the percentage of at least half-time students who borrowed for a 12-month period ending during the 6 months immediately preceding the FY for which the cohort used to determine the repayment rate is determined. An institution may lose Title IV eligibility for 3 years if its repayment rate is less than a threshold rate set by the Secretary, for a period of time set by the Secretary, but only if the institution’s instructional expenses are less than 1/3 of its tuition and fee revenue in any of the last 3 fiscal years. An otherwise failing institution can retain eligibility for a “category of educational programs” if the repayment rate for that category was over the threshold. Institutions that fail the repayment portion of the test, but pass the instructional expenditures element, are subject to a repayment management plan.

Other Provisions

Competency-Based Education (CBE) Demonstration Grants

The Secretary is authorized to select eligible entities to voluntarily carry out competency-based educational demonstration projects for 5 years, by receiving waivers and other flexibility from Title IV requirements. Enrollment in approved programs must be between 25 and 3,000 students, with colleges permitted to expand CBE enrollment to 5,000 students after a second ED review. The substantial conditions and reporting requirements associated with participating in this program far exceed those applied to traditional assessment programs; so much so that its appeal to institutions is unclear. Also, the legislation’s conception of CBE strongly emphasizes technical training programs, in contrast to many current community college CBE programs. On a positive note, a broad variety of statutory requirements could be waived by the Secretary. Finally, a CBE council is created and, after 6 years, would make recommendations about ways that the HEA could be changed to better accommodate CBE.

Civil Rights Coordinator

Institutions would be required to designate a Civil Rights Act Title VI coordinator. Colleges would be required to file an annual report that describes all such complaints reported against an institution. Institutions would be required to notify students about the coordinator and how to make claims.

Online Survey Tool for Campus Safety

Working with other federal agencies, the Secretary would be required to develop a standardized online survey tool regarding student experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking. The survey would have to be administered every two years, and, to the maximum extent practice, colleges must ensure that an adequate, random, and representative sample size of students complete the survey. (This requirement seems to conflict with the bill’s requirement that students be provided anonymity in survey responses.) The Secretary may impose financial penalties on institutions that fail to comply with any of these provisions.

Program Integrity

State Authorization

The legislation would slightly expand the HEA’s specific requirements that states must meet to be part of the “triad.” These should not be problematic for community colleges.

Accreditation

The HEA's accreditation provisions, which condition the Secretary's recognition of agencies for Title IV purposes, are changed significantly. First, a negotiated rulemaking process would be used to develop definitions of standards in 3 areas of student achievement. These standards include: (1) completion (which may include transfer), (2) workforce participation (which could include licensure pass rates, job placement, or employment), and (3) progress towards meeting the first two standards (which could include retention and completion). Accrediting agencies would then set performance levels for each of the standards they chose to use in the above 3 categories. The accrediting agencies would be required to apply 1 standard in each category to peer groups of institutions and justify those standards. However, surprisingly, the peer groups cannot be based on sector or student population. Critically, the Secretary could require an agency to review and revise its standards or performance benchmarks, on the grounds that they are not appropriate for the peer group or that the performance benchmarks are too low. In other words, the Secretary would acquire the authority to set "bright lines" for standards of student achievement, which is of great concern to AACC.

America's College Promise (ACP)

The CAA establishes a new "no tuition" community college program. Under ACP, the Secretary would provide to states grants of ¾ of the average national community college tuition for each covered student. (After 2020-21, the average tuition covered could not increase more than 3% or the CPI, whichever is lower.) States would have to provide the other ¼ of the funds. No tuition would be charged to students for 3 years, if they are in-state and enrolled half-time or more.

States would have to maintain their spending on public higher education, including student financial assistance programs. The legislation requires states to specify plans for improving community college programs, though it does not include strong mandates. However, states would be required to enhance their articulation policies, and within 3 years community college associate degrees in academic areas would need to be fully transferrable to a public 4-year institution. The program would receive "mandatory" funding rather than being subject to the annual appropriations process. Funds not needed for eliminating community college tuition could be used for a variety of other purposes, including enhancing affordability at four-year institutions. The program's size would increase over time, to $16.3 billion in its 10th year, close to 60% of the cost of the current Pell Grant program.

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