

# **COMMUNITY COLLEGE FEDERAL LEGISLATIVE PRIORITIES**

**113<sup>TH</sup> CONGRESS, FIRST SESSION**

**BACKGROUND BRIEFING INFORMATION**

Updated February 15, 2013

## **Federal Legislative Landscape**

January saw the second inauguration of President Barack Obama and the start of the 113<sup>th</sup> Congress. These events marked the end of a year of aggressive political campaigns and a divisive Congress. While many Americans have expressed frustration over Congressional inaction, the 2012 elections did not result in any significant changes in leadership. The last Congress was punctuated with a last-minute deal to avert significant tax increases on millions of Americans.

All signs point to another round of negotiations over federal spending and deficit reduction to start the 113th Congress. While Congress has opted to suspend the debt ceiling until mid-May, coming to an agreement on how to proceed beyond that will be challenging. Additionally, a deferred sequestration is set to occur on March 1, and the current fiscal-year funding “continuing resolution” expires on March 27. If Congress fails to act on these issues, the nation could face significant economic consequences.

The fiscal battles also have delayed the release of the President’s FY 2014 budget request and have put several other legislative issues on the backburner. Once these items are addressed, Congress will have several priorities to tackle, including the reauthorizations of the Higher Education Act, the Workforce Investment Act, the Carl D. Perkins Career and Technical Education Act, and the Elementary and Secondary Education Act.

### **Fiscal Year (FY) 2013 Appropriations**

In September, the House and Senate passed a six-month continuing resolution in order to avert a government shutdown just prior to the elections. With an overall funding level set at \$1.047 trillion, the bill is \$8 billion above FY 2012 levels and reflects levels agreed to in last year's bipartisan Budget Control Act. The \$8 billion increase was unanticipated and largely due to additional revenue in the Federal Housing Administration and Crime Victims Fund accounts. Because of this additional revenue, Congress opted to increase all discretionary programs by 0.612% above FY 2012 levels until the continuing resolution expires on March 27.

The 0.612% increase should not be taken as a sign that Congress is prepared to begin increasing funding once more. In fact, the Office of Management and Budget (OMB) is preventing agencies from spending this increase in the short term. The increase was a temporary agreement in order to get through the elections, with plans to revisit the funding issue once again in the 113<sup>th</sup> Congress.

Overall appropriations for community college priority programs have largely remained level since 2011. Additionally, important mandatory programs such as the Trade Adjustment Assistance Community College and Career Training Grant (TAA CCCTG) program have been maintained. However, that may change in early 2013 as across-the-board funding cuts known as sequestration are set to take effect.

### **Sequestration**

In August 2011, Congress passed the Budget Control Act (BCA), a bipartisan deal to raise the debt limit in exchange for a series of spending cuts. Under the BCA, Congress and the Super Committee (a select group of Members of Congress) were directed to pass a plan to reduce federal spending by \$1.2 trillion. Their failure to produce a deficit-reduction plan triggered automatic across-the-board cuts known as sequestration. Sequestration was initially set to occur on January 2, but has now been delayed until March 1 under the deal to avert the fiscal cliff.

The delay will give Congress more time to come up with a possible alternative to sequestration. The bill also reduces the total amount of the sequester by \$24 billion over 9 years. This would lower the projected 8.2 percent across-the-board cuts for nondefense discretionary spending in FY 2013 to around 5 percent. If sequestration were to occur, nondefense discretionary spending (including most higher-education programs) would be cut by \$42.67 billion in FY 2013. Both Stafford and PLUS loans would see a slight increase in their origination fee under sequestration. Additionally, the TAA CCCTG program would see an immediate cut of around \$30 million from its \$500 million mandatory allocation for FY 2013. The Pell Grant program would be exempt from sequestration during the first year, while cuts to most other education programs would occur during the academic year (AY) 2013–2014.

## **Support the Federal Pell Grant Program**

For community college students, the Federal Pell Grant program remains by far the most important student-aid program. Pell Grants assist more than nine million postsecondary students each year, and approximately one-third of these students attend community colleges. Pell Grants represent the federal government’s commitment to ensuring that qualified students from all financial backgrounds are able to attend college.

Pell Grants play a much more prominent role in community college student financing than in other sectors for two primary reasons. Community college students, on average, have the lowest incomes, and they also pay the lowest average tuitions—in the fall of 2012, \$3,131 for a full-time, full-year student. This means that Pell Grants cover a greater percentage of college expenses for community college students than for students attending other types of institutions. Grants help to minimize student borrowing; only 10% of all community college students take out federal loans.

In 2012, Congress made changes to the Pell Grant program in order to generate savings for the program, which was facing a shortfall. These changes included the elimination of all new “ability-to-benefit” (ATB) students. These students lack a high school diploma or GED, yet have proven their ability to benefit from college-level coursework either through the successful completion of classes (six credits) or by passing a test. Almost half of all ATB students attend a community college. ACCT, AACC, and other higher education and workforce stakeholders argued successfully for the reinstatement of eligibility for some ATB students in the Senate’s FY 2013 Labor, Health and Human Services, and Education (Labor-HHS-ED) appropriations bill. The language, championed by Senator Patty Murray (D-WA), would provide Title IV eligibility (including Pell Grants) for students participating in career-pathway programs. The full Senate did not vote on the Senate’s Labor-HHS-ED bill last year, but legislative language to reinstate ATB students may be up for consideration again this spring. At a time when Congress is seeking to make additional cuts, it is difficult to add eligibility into the program. It is essential that community college leaders advocate on behalf of these students.

Also in the Senate’s FY 2013 Labor-HHS-ED bill was a provision to limit Pell Grant eligibility for distance-education students to tuition and fees, books, and supplies. It would exclude living expenses from the cost of attendance calculation for any student who received all of his/her instruction online. The Pell cost calculation change for distance-education students is of particular concern for community colleges since it only impacts students who have relatively low tuition costs. It was proposed as a disincentive for those seeking to commit fraud. However, many community colleges and the U.S. Department of Education have taken steps recently to reduce Pell Grant fraud, so this provision should be

rejected. Community college leaders must convey to Congress that reducing student awards is not a suitable means to combat low levels of fraud.

The Pell Grant maximum is scheduled to increase by \$85 in AY 2013–2014, bringing the total to \$5,635. This is an automatic statutory increase created by a cost of living formula under the Health Care and Education Reconciliation Act of 2010.

Recently released figures from the Congressional Budget Office (CBO) show that the Pell Grant program will have a cumulative surplus of \$9.3 billion for 2013. This eliminates the previously expected shortfall for FY 2014 and provides a more manageable shortfall of \$1.37 billion in 2015. For FY 2015 and beyond the Pell Grant program is slated for a shortfall each year. Assuming that the shortfall materializes, Congress will have a few ways to address it: infuse additional dollars into the program; modify student eligibility; or lower the maximum award.

Potential changes to eligibility would likely have a greater impact on non-traditional students. Some of the changes Congress may consider include: eliminating eligibility for less-than-half-time students; lowering Pell's income-protection allowance formula; instituting an income cap; and lowering the income thresholds for zero expected family contribution.

## **Funding Priorities: Help Community Colleges Respond to Demand for Education and Training**

Given the large number of unemployed and under-employed individuals seeking training and retraining, targeted federal investments in education and workforce-training programs are more important than ever. Funding for federal programs that enable community colleges to serve more students is essential.

### **Priority programs include:**

#### **TAA Community College and Career Training Grant (TAA CCCTG) Program**

Community colleges across the country were intensively engaged in the second round of grants awarded in late September under the TAA CCCTG program. This program was created in the American Recovery and Reinvestment Act of 2009 and funded in the Health Care and Education Reconciliation Act of 2010. The TAA CCCTG was funded at \$2 billion over four years, distributed in increments of \$500 million per year. This funding is mandatory and not subject to the annual appropriations process. The program marked a historic commitment to community colleges.

The third competition for funding is expected to be released in late April or early May. AACC and ACCT are working to ensure that applicants are provided with as much information as possible to submit applications that dovetail with the ambitious program goals of serving TAA-eligible individuals and others with innovative, flexible programs targeted to solid job opportunities.

This landmark program remains in legislative jeopardy. The \$1 billion remaining in the program is vulnerable to cuts, with Congress seeking ways to reduce federal expenditures and looking for offsets for other expenditures. It is imperative that all community college advocates speak out in strong support of this program. This is by far the largest single federal program targeted to community colleges, and it is particularly important at a time when community colleges are commonly asked to do more with less.

## **Federal Student Aid**

Community colleges and their students recognize the importance of the federal student financial aid programs to expand access to postsecondary education and increase college completion. In addition to the Pell Grant program, community college students utilize the Supplemental Educational Opportunity Grants (SEOG) and Federal Work-Study. Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) and the TRIO programs also help low-income, first-generation college students prepare for, enroll in, and graduate from college.

## **Career and Technical Education and Adult Education**

The Carl D. Perkins Career and Technical Education Act of 2006 provides federal support for career and technical education (CTE) programs by authorizing funds for postsecondary institutions, states, and local school districts. Perkins CTE programs are one of the largest federal sources of institutional support for community colleges, helping them to improve all aspects of cutting-edge career and technical education programs.

The Perkins Act gives postsecondary institutions the flexibility to identify local priorities and use the Basic State Grants to fund innovation in occupational education programs. Community colleges use funds for a variety of purposes, including: training first responders and public-safety officers; helping students meet challenging academic, vocational, and technical standards; improving curricula; purchasing equipment; integrating vocational and academic instruction; and fostering links between colleges and the business community. AACC and ACCT support maintaining current funding levels for the Perkins CTE programs.

Community colleges enroll millions of adults each year in Adult Basic Education and support investments in this important program to enable those Americans who lack a high school diploma to prepare for and complete the coursework necessary for college readiness.

## **Institutional Aid**

In addition to student financial assistance, there is a tremendous need for continued investments in direct institutional aid to those colleges that serve a disproportionate number of minority, low-income, and first-generation college students. Title III and Title V of the Higher Education Act provide grant funds under the Strengthening Institutions Program (Title III-A), the Strengthening Historically Black Colleges and Universities (HBCUs) Program, the Strengthening Predominantly Black Institutions (PBIs) Program, the Developing Hispanic-Serving Institutions Program (Title V), and other programs directed at those institutions serving other specific populations.

## **Workforce Development**

Narrowing the current skills gap is an essential part of our nation's ability to compete globally. American businesses are facing a shortage of workers who have the requisite skill levels, and the situation is certain to become more pressing as the economy recovers and the demand for skilled workers increases. The Workforce Investment Act's (WIA) job-training and adult basic-education programs provide workers, particularly those with minimal means or skills, with the education and training they need in the changing economy. In FY 2011, WIA saw a significant cut in funding levels and the elimination of funding for the Career Pathways Innovation Fund—a program that provided \$125 million annually to community college collaborative-training programs. In FY 2012 and 2013, WIA programs were largely level funded. Continued funding for WIA is a priority for community colleges in order to maintain access and programs for training workers.

## **National Science Foundation**

Another priority program for community colleges is the National Science Foundation's Advanced Technological Education (ATE) program. The ATE program serves as the primary source of federal support for technician education, an often-overlooked but crucial aspect of the STEM workforce. The ATE program provides students with the core knowledge and skills required by the industries of our present and future economy, such as biotechnology, alternative energy, and nanotechnology. The program is equally prized by the large number of business partners that work with ATE grantees and employ their graduates. The ATE program also has played a vital role in the preparation of future K-12 science and math teachers.

## **Reauthorize the Workforce Investment Act**

Due for reauthorization since 2004, the Workforce Investment Act (WIA) remains on the Congressional agenda and is an important priority for community colleges. Absent breakthroughs on some key issues that have divided the political parties, however, there is little indication that WIA reauthorization will be completed this year. There will likely be important activity in this area, at least in the House, so it is still important to advocate for community college priorities.

In 2012, House Republicans introduced and passed out of the Committee on Education and the Workforce their reauthorization measure, the Workforce Investment Improvement Act of 2012 (H.R. 4297). H.R. 4297 would consolidate 27 existing workforce-development programs into one large Workforce Investment Fund, over which governors would have great discretion. Furthermore, governors would have the authority to consolidate additional programs into the fund at the state level. The bill would also remove the guaranteed slot for a community college representative on the state and local Workforce Investment Boards (WIBs).

While the House bill received only partisan support, there are several areas whereby both parties agree. These include: reforming accountability measures; emphasizing regional planning and delivery of services; and placing a greater emphasis on the transition to postsecondary education in the adult education program. Contention remains over program consolidation, the makeup for the WIBs, state control over funding, and prioritizing services for low income individuals.

House Republicans have signaled that they intend to reintroduce and move WIA reauthorization legislation early this year. Prospects for Senate action are unclear, as there has not been any action since draft legislation was circulated in 2011. Sen. Mike Enzi, the former ranking member of the Senate Health, Education, Labor, and Pensions Committee, was an ardent advocate for completing WIA reauthorization. It is uncertain whether his replacement, Sen. Lamar Alexander, will make WIA as much of a priority.

## **Recommendations for WIA Reauthorization:**

### **Prioritize the Roles of Community Colleges in the Workforce Development System:**

Community colleges should be required members of workforce investment boards at the state and local level. WIA should include language allowing WIBs to contract with community colleges in a greater number of cases. States and local areas should be required to account for how they will work with community colleges in their state and local plans, and how they will prioritize the use of community colleges as training providers. WIA should authorize the Community College to Career Fund proposed by President Obama.

**Ease the Reporting Burden for Eligible Training Providers:**

Public institutions of higher education whose programs are monitored for quality through accreditation, state licensure, and other state and federal programs should be deemed automatically eligible to provide services to WIA participants.

**Increase the Alignment among Adult Basic Education, Workforce Training, and Postsecondary Education:**

In order to remain globally competitive, the nation requires an unprecedented number of people to enter into and succeed in postsecondary education. Achieving these goals will require a multi-faceted effort by institutions, states, and the federal government. This effort will only succeed if we are effective in reaching out to populations that are currently underrepresented in postsecondary education. Congress has a significant opportunity to assist this effort by providing support to increase the connection between adult basic education (ABE) and postsecondary education. The ABE to postsecondary “pipeline” is vital to achieving the postsecondary participation rates that will be necessary to maintain the nation's economic standing. In addition, ABE must be seen as a vital element of occupational training and vice-versa. ABE should be maintained as its own funding stream and should not be consolidated into a larger fund at the federal or state levels.

**Reauthorize the Higher Education Act**

The Higher Education Act (HEA) is the single most important piece of legislation affecting community colleges and their students. The legislation authorizes Pell Grants, Stafford Loans, Federal Work-Study, and an array of hugely important institutional grant programs, including TRIO, GEAR UP, Title III-A, Title V, Predominantly Black institutions, and international education. The HEA was last reauthorized in 2008. The next reauthorization is scheduled for completion by 2014, assuming an automatic one-year extension. The reauthorization process, at least in the form of Congressional hearings, will get underway next year.

Reauthorization of the Higher Education Act will likely involve a broad critique of higher education in addition to major program changes. In a way, this is simply because policymakers realize that higher education has become too important and faces too many challenges for the HEA to be left as is. As part of the nation's higher education system, and despite broad appreciation of their unique features, community colleges surely will be included in any “reforms” that are introduced in the reauthorized HEA. These reforms could include graduation-rate targets or “bright line” standards, a greater emphasis on learning outcomes, the consolidation of existing student-aid programs, and new incentives—carrots or sticks—for students to achieve their educational goals. It is a virtual certainty that new forms of reporting institutional outcomes, and a greater effort at transparency, will be mandated.

But it also should be recognized that, by design, the federal government is not directly involved with the actual delivery of higher education. Historically, the federal government's primary role has been to provide financial assistance to students, and over 90% of HEA funds are spent on this purpose. Clearly, the federal government has an obligation to ensure that taxpayer funds are spent appropriately. But given the importance of federal student aid, community colleges may have to devote a good deal of energy to the pursuit of policies that reflect the fact that the delivery of education by community colleges is primarily a state and local responsibility. Institutional autonomy has played a key role in the success of American higher education. Unfortunately, the tension between creating access and applying appropriate standards to higher education achievement will remain.

The timetable for the HEA reauthorization remains undefined. The U.S. House of Representatives and the Education and the Workforce Committee may move first on legislation, but the Senate Committee on Health, Education, Labor, and Pensions (HELP) also is planning to continue its HEA hearings. These two committees with jurisdiction over the legislation face an extremely large set of laws that are due, or overdue, for reauthorization. Another political factor is the ascension of Senator Lamar Alexander (R-TN) to ranking member on the HELP Committee, replacing Sen. Mike Enzi (R-WY). As a former governor, university president, and U.S. Secretary of Education, Sen. Alexander can be expected to exert a strong voice on the HEA reauthorization process.

## **Enhance the Carl D. Perkins Career and Technical Education Act**

The Perkins Act's current authorization expires at the end of September, and Congress is expected to start, but is not likely to finish, the process of reauthorizing the legislation this year. The last reauthorization, completed in 2006, was a bipartisan process, and hopes are that the upcoming reauthorization will be bipartisan as well. Support for Perkins funding has been relatively bipartisan, at least in comparison to WIA program funding, which bodes well for the future of the act.

The most significant development in the Perkins reauthorization discussions to date is last April's release of the Department of Education's (ED) *Investing in America's Future: A Blueprint for Transforming Career and Technical Education*. The blueprint lays out a number of recommendations categorized under the themes of alignment, collaboration, accountability, and innovation. Throughout the document, there is a significant emphasis on extending the development of many concepts that were stressed in the last reauthorization, such as stronger collaboration between high schools and postsecondary institutions and a sharper focus on high-demand occupations. Two of the recommendations that have received the most notice include the proposal to distribute funds within states on a competitive basis only to consortia of institutions and for a state-matching fund intended to drive stronger business involvement with CTE programs.

Community colleges must continue to advocate for a robust Perkins program that serves the needs of all types of CTE students and which maintains a flexibility that will allow community colleges to creatively and effectively deploy their Perkins funds. Additionally, reporting requirements under CTE, WIA, and other programs should remain identical whenever possible.

## **Help Community Colleges Better Serve Veterans**

Community colleges have a long, proud, and continuing history of serving the needs of veterans, a challenge that requires an adequate federal response. Ample funding for the Centers of Excellence for Veterans Student Success and Veterans Upward Bound under the federal TRIO programs are priorities for community colleges.

During the past year, most of the discussion relating to veterans' education was around the issue of protecting veterans from the recruitment practices of unscrupulous educational institutions and providing veterans with the information that they need to make sound educational decisions. Multiple bills were introduced in the 112<sup>th</sup> Congress that would provide protections and information to veteran students using their GI Bill benefits. At the end of the 112<sup>th</sup> Congress, veterans and higher education groups jointly advocated for passage of the Improving Transparency of Education Opportunities for Veterans Act of

2012 (H.R. 4057), originally sponsored by Rep. Gus Bilirakis (R-FL), which was championed by Sen. Patty Murray (D-WA) in the Senate. The bill's main purpose is to provide information to veterans to help them choose a college, but it achieved this end in a much more balanced fashion with the bulk of the responsibility falling on the VA. H.R. 4057 was signed into law on January 10, 2013.

Last April, President Obama issued an executive order establishing "Principles of Excellence" that institutions receiving GI Bill or military tuition-assistance funds could volunteer to follow in serving veteran and active-duty students. The principles cover much the same ground as the legislation described above, and generally are aimed at encouraging non-Title IV institutions to follow the same practices in areas such as student recruitment that Title IV institutions are already bound to follow as a condition of participating in those programs. The principles also call for institutions to use the new "shopping sheet" template for their financial-aid award letters. The Departments of Education, Veterans Affairs, and Defense are developing the details for sections of the executive order that call for more detailed educational outcomes measures for veteran students.

Congress will once again seek to address the issue of how to better provide services for veterans who are out-of-state students at public institutions. Because of the nature of their duties while in the military, these students often find themselves attending institutions in states other than their primary residence. As a result of previous legislation that modified the Post 9/11 G.I. Bill, veterans attending public institutions on an out-of-state basis are not as well provided for as they were under the original program. Members of Congress have introduced legislation that takes two different approaches to this issue. A bill introduced in the House by Rep. George K. Butterfield (D-NC), and in the Senate by Sen. Richard Durbin (D-IL), modifies the G.I. Bill to provide out-of-state veteran students with the full amount of tuition they pay, up to an indexed cap of \$19,000 (unless in-state tuition exceeds that amount), which is the same benefit enjoyed by veterans using their benefits at private institutions. Alternatively, Reps. Jeff Miller (R-FL, chair of the Veterans Affairs committee) and Michael Michaud (D-ME) have introduced the G.I. Bill Tuition Fairness Act (H.R. 357), which would require the VA to disapprove for G.I. Bill eligibility any course at an institution of higher education unless veterans are charged in-state tuition, regardless of their actual residency. The higher education community has backed the approach taken in the Butterfield/Durbin legislation.

## **Pass the DREAM Act**

Community colleges continue to press for enactment of the Development, Relief, and Education for Alien Minors (DREAM) Act. Despite longtime residence in the U.S., many undocumented individuals face tremendous difficulties enrolling in or paying for college and finding employment. The DREAM Act would alleviate this situation by granting qualified undocumented students conditional legal resident status. These students would be able to achieve permanent legal status by completing two years of higher education or military service within six years. From there, they would be on a path to citizenship. Only those students who were brought into the country before they were 16 years old and who have resided in the country for at least five years at the time of the DREAM Act's enactment would be eligible. The DREAM Act also repeals a provision of federal law that essentially bars states from granting in-state tuition to undocumented students. Current federal law states that any residency-based benefit extended to undocumented students must also be provided to any U.S. citizen. Twelve states have circumvented this provision by extending in-state tuition to undocumented students based on factors other than residency (i.e., graduation from a high school within the state).

The Latino support for President Obama in the 2012 election and the demographic trends that make winning support from this group even more important in the future have revived the prospects for immigration reform in the new Congress. President Obama has indicated that it is one of his top priorities for his second term. The DREAM Act, as one of the least contentious of the various immigration issues, very likely would be included in any reform packages, or possibly move on its own. Though the electoral landscape has moved many Republicans to be more open to immigration reform, there are still many others in the party that remain adamantly opposed to anything that looks like “amnesty” for undocumented people, so progress will not necessarily come easy.

Last year, President Obama established the Deferred Action for Childhood Arrivals initiative, which allows individuals who meet eligibility criteria very similar to those of the DREAM Act to apply for a renewable two-year deferral of removal actions against them. During this time, eligible individuals may also obtain work authorization. However, the initiative does not create a pathway to citizenship, nor does it remove the restriction on in-state tuition for undocumented students currently in federal law. As of mid-January, more than 400,000 people had applied for deferral, and more than 150,000 cases had been approved to date, with most of the others still in the pipeline.

In January, a bipartisan group of eight Senators took a significant step in passing a comprehensive immigration-reform bill, when they presented a framework by which this could be achieved. The framework includes special priority for DREAM students to achieve citizenship, but details surrounding this pathway will not be revealed until a Senate bill is drafted.

## **Improve the Elementary and Secondary Education Act (ESEA)**

The Elementary and Secondary Education Act (ESEA) has been due for reauthorization for a number of years. Since the statute is large, complex, and controversial, reauthorization has been a challenging task for Congress. Over the past two years, the House and Senate have offered various reauthorization bills, yet have been unable to gain bipartisan consensus in a number of areas. Some of the more contentious issues include how to address flexibility in funding, accountability, and teacher preparedness.

President Obama and Secretary of Education Arne Duncan have repeatedly called for the reauthorization of ESEA, and have instituted a series of waivers in lieu of reauthorization. The waivers are designed to give states the flexibility to implement reforms, including: using funds to improve failing schools; overhauling professional development and teacher evaluations; and replacing adequate yearly progress with a comprehensive accountability system. In order to receive these waivers, a state must meet several criteria and must demonstrate that it is implementing college- and career-ready standards for all students. Thus far, 47 states have applied for or received waivers.

With the reauthorization of ESEA, it is time for community colleges to become active partners with K–12 education systems in preparing students for postsecondary education and beyond. Community colleges look to partner with the federal government to offer more dual enrollment programs and early college high schools for targeted populations. Their prominent role in teacher preparation should be better supported through the ESEA. Additionally, Congress should focus on effective implementation of national college and career readiness standards that will help reduce the need for remedial education and improve student time-to-degree. AACC and ACCT will continue to advocate for a reform package that links the K–12 and higher education communities.