History’s Lessons
The Meaning of the Higher Education Act

As marked by several notable milestones, Congress has made important changes over time in the package of legislation that oversees the federal role in higher education.

By Stephen G. Pelletier

Shortly after noon on November 8, 1965, in a ceremony at his alma mater—Southwest Texas State College, now Texas State University, in the city of San Marcos—President Lyndon Johnson made history by signing Public Law 89-329, the Higher Education Act of 1965 (HEA). At the signing, Johnson said the bill “will swing open a new door for the young people of America…the most important door that will ever open—the door to education,” adding “this legislation is the key which unlocks it.”

AASCU had a seat at the table—literally—in the crafting of the original HEA. Newly appointed in 1965 as AASCU’s first leader, Allan W. Ostar was invited by President Johnson’s education advisor, Douglass Cater, to help write the HEA. Now 91 years old, Ostar still recalls toiling for hours in a basement room in the White House, crafting language for the bill—and arguing on behalf of needy students. For example, he says, he advocated for more federal grants for students and was “fairly strongly opposed to having a significant dependence on loans.” (For more of Ostar’s perspectives, see sidebar.)

Breaking a Logjam

The phrase “landmark legislation” is perhaps overused, but it is truly a fitting description for the HEA. The original legislation, the Higher Education Act of 1965, “broke a logjam that had blocked the creation of any sort of federal aid to higher education for half a century,” says Terry W. Hartle, senior vice president for government and public affairs at the American Council on Education. Truly sweeping in scope, the HEA “for the first...
time put the federal government in the business of helping families finance higher education,” Hartle says, “with an emphasis on low-income individuals who might otherwise be excluded from participating in higher education.”

Last updated in 2008, the Higher Education Act is overdue for its periodic reauthorization. (The current version was originally set to expire in 2013, but has been extended.) Senator Lamar Alexander (R-Tenn.), who chairs the Senate Health, Education, Labor, and Pensions Committee, has said he wants to see reauthorization passed in 2015 and has held hearings to that end. Veterans of the political scene who specialize in higher education say that while Alexander’s goal is theoretically possible, his timetable doesn’t seem likely to happen. The consensus seems to be that reauthorization will come not this year but sometime in the future.

Past Reauthorizations

The cycle of reauthorization is intrinsically important to the Higher Education Act, which has been revised eight times since it was first passed into law in 1965. As we await the next reauthorization, this is a good time to look back at the history and impact of the HEA.

For historical context, we need to first look prior to 1965. As early as 1787, the Northwest Ordinance, which created the Northwest Territory, included provision for creation of a college in Ohio—the historic roots of Ohio University in Athens. The Morrill Acts of 1862 and 1890 were of course seminal in creating land-grant colleges with federal support. During the Great Depression in the 20th century, the National Youth Administration, part of the New Deal, supported work study in colleges. The G.I. Bill following World War II helped returning veterans go to college. After World War II, federal support for higher education went into a fallow period. The Cold War changed that. Largely in response to Russia’s launch of the Sputnik satellite in October 1957, Congress passed the National Defense Education Act (NDEA) of 1958. Focused largely on training in what we now call the STEM areas, as well as foreign languages, the NDEA targeted national defense needs at the time. It also represented the first time since the war that the federal government had made large-scale funding available to help people go to college. “It was really the federal government saying education is important for our national well-being and that we need to encourage more people to go to college,” Hartle says.

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– President Lyndon Johnson

Timeline of federal support for higher education

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<th>Year</th>
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1862, 1890 Morrill Acts: Seminal in creating land-grant colleges with federal support.

1930s Great Depression: National Youth Administration, part of the New Deal, supported work study in colleges.

1945 G.I. Bill: Helped returning veterans go to college.

1963 Higher Education Facilities Act: Authorized federal grants and loans for construction or improvement of academic facilities at both public and private colleges and universities.
The Act’s Impact

The impact of the Higher Education Act cannot be overstated. That single piece of legislation embodies a significant expansion of the federal role in higher education over time and reflects massive growth in the federal fiscal investment in students and universities. Today, the government spends some $170 billion annually on grants and loans related to higher education. In addition, federal support has helped public universities expand programs, research and physical plants.

One can argue that the availability of federal funding has enabled AASCU institutions to hold the line on tuition over time and keep public universities more affordable than their private university counterparts. “The basic core purpose of the Higher Education Act as it was originally envisioned was to provide access to students who wouldn’t otherwise be able to afford to go to college, and it has done that quite well,” observes AASCU’s Edward Elmendorf. While he is quick to say there is still much room for even greater access to college, Elmendorf notes that “without Pell grants, for example, I think AASCU institutions would probably be at half the enrollment we are now.”

Elmendorf also argues that without federal student aid governed by the HEA, students in public universities might leave college with as much as twice the amount of debt that the average student carries.

Richard Jerue, who was vice president of government relations at AASCU in the mid-1980s, says that without support through the HEA, “many students would not have been able to pursue a higher education at an AASCU institution.” Indeed, he says, federal support “has become critical to financial survival” for many AASCU institutions, especially in the wake of declining state appropriations.

The increase in federal support comes with a price, of course. Many educators—and an increasing number of legislators—bemoan the burdens of compliance that are required by federal regulations of higher education.

Additionally, the HEA may also present something of a paradoxical disincentive. Recognizing all the good that the HEA has meant for the AASCU sector, AASCU’s Barmak Nassirian argues that the act may have also had a perverse economic impact. “In some ways you could argue that [the HEA] took the public higher education system—with ‘public’ referencing state funding—and turned it into a different kind of public model, where the public piece of it has to do with federal resources becoming a much more significant part—not as a supplement, but as a substitute for state funding,” Nassirian says. With regard to public universities, he suggests, “One of the inadvertent consequences of massive amounts of federal funding may well have been this gradual process of [state] disinvestment that is now in full view.”
of 1963. That legislation—which had been proposed by President Kennedy and was passed partly in tribute after his assassination—authorized federal grants and loans for construction or improvement of academic facilities at both public and private colleges and universities. Enacted as the first of the Baby Boomers were about to enter college, the facilities act helped fund a construction boom in higher education—an expansion so momentous that between the late 1960s and early 1970s, one college a week was opening in the United States.

While they would evolve over time, the original version of the Higher Education Act included several pioneering components:

- **Title I**, Community Service and Continuing Education provisions, authorized grants for research and programs focused on addressing societal problems such as poverty, substandard housing, and opportunities for youth.
- **Title II** approved federal financial support for college libraries.
- **Title III** provided for aid to “developing institutions,” including Historically Black Colleges and Universities, two-year colleges, and technical institutions.
- **Title IV**, where the bulk of HEA funding resides, authorized federal aid to be generally available, thus expanding the federal role beyond certain types of students, such as veterans or students in select disciplines.
- **Title V** established a national Teacher Corps and federal programs to improve teacher education.
- **Title VI** was originally designed to provide grants to improve undergraduate instruction through upgrades in technology and faculty development.
- **Title VII** built on the Higher Education Facilities Act to support construction in higher education.
- **Title IV** established Basic Educational Opportunity Grants (BEOG, which later became Pell Grants) and what eventually became known as the TRIO Program, designed to help low-income students; established the seminal Guaranteed Student Loan program; expanded and codified the federal work-study program; and integrated an existing federal program, the National Defense Student Loan Program, later known as Perkins loans.

Truly sweeping in scope, the Higher Education Act would have an impact over time that its original backers likely could

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not have imagined. “The 1965 event itself was quite a breakthrough because back then there were people for whom it was counterintuitive to suggest that if you don’t have money to go to college you should still be able to aspire to do so,” says Barmak Nassirian, director of federal relations and policy analysis at AASCU. “That money should not keep you out of college is an uncontested proposition today. But back then it was sort of a revolutionary thought, certainly at the federal level.”

The Higher Education Act was in some ways overshadowed by the Elementary and Secondary Education Act, passed in 1965 as a cornerstone of President Johnson’s “War on Poverty.” Nonetheless, the federal government’s newfound interest in and support for higher education was groundbreaking legislation. The Higher Education Act rightfully holds its own place as a linchpin in Johnson’s vision for a Great Society of the scope of the federal investment it oversees—the HEA has been the subject of continual debate, litigation, controversy and change since its inception.

Key Milestones

Congression has the authority to amend the Higher Education Act at will. The act has undergone eight comprehensive reauthorizations since its original passage into law. Several milestones in that history are particularly notable.

- Probably the single most momentous change occurred during the 1972 reauthorization. Historically, federal aid for higher education had been oriented toward institutions, not individuals. But prior to 1972, a robust policy debate ensued about whether federal support should go directly to institutions or be given to students in the form of a voucher. In the 1972 reauthorization, Congress changed course and decided to prioritize student aid over institutional aid, despite vigorous objections from colleges and universities. Legislation enacted then created the Basic Educational Opportunity Grant program—student-based awards that in 1972 would come under the umbrella of the Federal Pell Grant Program.

While the 1972 reauthorization expanded student access to financial aid, the pivot from institutional support to student-based aid can be viewed as something of a double-edged sword. “The original conception [of the HEA] was of higher education as a basic right that even poor people should have the ability to exercise,” Nassirian says. “But there is some debate in my mind as to whether student aid, as opposed to institutional aid—which was the choice then—has worked out better.” The problem, he says, is that the voucher system eventually tilted from student grants to student loans. “One could argue that that might have actually expedited privatization of public higher education,” Nassirian says, “because the states, under duress of other competing budgetary pressures, could always increase tuition just a tad bit more

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**Timeline of federal support for higher education**

1992 Reauthorization
Formalized a number of ideas, like cohort default rates as a way of determining institutional quality and making judgments about which schools should and should not be in the federal student aid program.

1998 Reauthorization
Reduced interest rates on some student loans, making them more attractive to students.

2008 Reauthorization
Included more than 100 new reporting requirements for higher education, covering such topics as “net cost,” graduation rates, and teacher education licensure.
Have the Core Ideas of the HEA Been Fulfilled?

In the sense that it helps make college accessible for more students, particularly lower income students, it is hard to make the case that the Higher Education Act has not fulfilled a large part of its promise. The HEA, after all, provides a great deal of financial support for students and institutions. Still, experts also argue that in the course of designing and executing the HEA—and particularly in tinkering with it through reauthorizations—some of the bill’s original purpose has been lost, diverted or even usurped by special interests.

The New America Foundation suggests that over time the HEA’s emphasis has shifted from access to affordability and from grants to loans. Foundation data says that some 62 percent of federal student aid funding today comes in the form of government guaranteed and subsidized student loans, while 15 percent are grants.

To this day, AASCU’s Allan Ostar, one of the original authors of the HEA, rues the fact he and his colleagues were unable to focus the bill more on grants to students versus loans. “The emphasis ought to be on need-based aid, with the cornerstones being Pell grants, work-study and short-term loans,” Ostar says. But in the original writing, the forces that favored loans won the debate, creating a system that Ostar once termed as “indenturing our students to the banks.” Noting that financial institutions have profited while students have had to take on a growing burden of debt, Ostar says, “I think that’s just very bad public policy. And it is a betrayal of the original intent of the Higher Education Act.”

Some experts say that the HEA’s fundamental structure and focus creates a cascade of unintended negative effects. The ballooning of federal dollars available for student aid has in effect enabled states to pull back from their support of higher education. According to the Government Accounting Office, for example, total federal support for public universities increased from $39.1 billion to $55 billion between 2003 and 2012, while total state support declined from $80 billion to $70.6 billion in the same period.

Such trends have led most public universities to have had to increase tuition, sometimes significantly, which in turn has meant that more students have had to borrow more money to pay for college. State disinvestment in higher education has squeezed the economics of public universities to the point where they have had to cut programs and rely more on adjunct faculty—developments that Ostar says inevitably “have some educational consequences.” Sure, Ostar says, AASCU institutions have benefited from federal support. “The more money that’s out there, the more they are going to benefit,” he says. “But is this good public policy? The answer is no.”

Barmak Nassirian notes that the HEA’s expansion to help more middle class students—who he is quick to say can also use help—has in some ways come at the expense of lower-income students. For example, he says, “The Pell grant program in terms of its budgetary costs has grown significantly, but the maximum Pell is actually $100 less today than it was a few decades ago.” Had more federal money not been made available to middle income families, presumably more funds might be available to Pell-eligible students. Similarly, the tax benefits that comprise some 23 percent of total federal student aid are geared more toward middle- and upper-income families.

Yet another problem is that regulations in the HEA do not appear to be tough enough to stem abuses of the federal aid systems such as we have seen lately, largely affecting students in for-profit institutions. “The challenge is that the mechanisms we put in place, the regulations, are entirely inadequate to the size and nature of the threat that is coming at us,” Nassirian says. “Most of the safeguards are procedural and vacuous and there is mass fraud right before the public’s eyes and nobody is doing anything about it.”

The hope, of course, is that the next reauthorization of the HEA will address some of these concerns. AASCU, for example, has proposed using existing federal resources to create a new federal matching grant program that leverages federal funds to incentivize states to boost operating support for public higher education—an approach that advocates say would mitigate tuition price increases and improve college affordability.
and console themselves that kids wouldn’t be locked out because they could borrow money."

A related concern, says Edward M. Elmendorf, senior vice president for government relations and policy analysis at AASCU, is that the shift to a focus on loans opened the floodgates for potential abuses that we have seen plague the proprietary sector of higher education. Elmendorf expects that such abuses will force legislators in the next reauthorization to "take a hard look at whether or not these funds should continue to flow as they have in the past.”

While other reauthorizations may not have had the same seismic impact as the changes enacted in 1972, other milestones in higher education policy are nonetheless worth noting. In 1978, for example, President Carter signed the Middle Income Student Assistance Act (MISAA). That legislation “responded to public concerns about the rapidly rising price of education, and sharply expanded federal student aid to middle-income families,” Hartle says. "It was really the first very clear indication of what had been an ongoing policy debate about the balance of federal aid between helping low- and middle-income families and even upper-income families pay for college.” While the MISAA would be repealed under the Reagan administration, Hartle notes that it brought the debate about the fundamental purpose of federal student aid programs into the open for the first time.

The following year, 1979, saw the creation of the United States Department of Education (DoE)—“over Republican objections that if we create a federal agency they will come to dominate academic decisions currently made by colleges and universities,” as Hartle describes it. Objections to the very existence of the DoE persist today.

Two decades after the decisive changes of 1972, the reauthorization of 1992 also brought a notable level of change. “Much of the 1992 reauthorization focused around abuses by some for-profit schools of the student aid programs,” Hartle recalls. "And we started to see a number of ideas formalized, like cohort default rates as a way of determining institutional quality and making judgments about which schools should and should not be in the federal student aid program.” In addition, in the years just prior to 1992, the federal government had also mandated the publication of university graduation rates and crime statistics. The upshot, Hartle says, is that “in the 1990s, we see a fairly significant expansion of the federal direction over postsecondary education, becoming much more involved in assessing institutions.”

Reviewing the effects of the 1992 reauthorization, Nassirian recalls both “an attempt on the part of Congress to clean up waste, fraud and abuse in the for-profit sector” and "sort of an odd consensus emerging between Democrats and Republicans” to focus policies not on “the poorest of the poor, which was certainly the thematic in 1965, but more on middle-income people.” As further evidence of what he perceives as a not so subtle shift from a focus on the very poor to the middle class, Nassirian cites the Taxpayer Relief Act of 1997, which through creation of the Hope scholarship and lifelong learning tax credits pushed the limits for eligibility for student aid.
well into middle and even upper-middle income brackets.

The next two reauthorizations, in 1998 and 2008, could be categorized as relatively uneventful. Both were marked not by dramatic shifts in federal policy, but by incremental changes. The 1998 reauthorization did reduce interest rates on some student loans, making them more attractive to students. Loan rates were also cut in the 2008 reauthorization, which was notable in part because it took six years to pass. Signed by President George W. Bush in August 2008, that reauthorization included more than 100 new reporting requirements for higher education, covering such topics as "net cost," graduation rates, and teacher education licensure.

Hartle notes that one of the interesting trends in federal student aid policy is that more of it is being enacted outside the Higher Education Act. As one example, he cites the first direct lending program, created by the Clinton administration in 1993. Similarly, he says, in 2007 congressional Democrats lowered the interest rates on federal student loans through a budget bill. Similarly, too, the post-9/11 G.I. Bill was legislated through a congressional spending bill.

The Next Reauthorization

In Washington today, the higher education community is watching to see when and how the next reauthorization of the Higher Education Act might take shape. Many factors, not the least of which is the presidential campaign, might suggest that the next reauthorization will take place later rather than sooner. “Right now, in the summer of 2015, it’s a little soon to tell whether or not Congress will reauthorize the higher education act how they relate to other strands and how they overlap and are wrapped around each other is a fairly complicated undertaking.”

The HEA has been the subject of continual debate, litigation, controversy and change since its inception.

Certainly, all of higher education, and public universities in particular, will be watching with keen interest to see how those issues interconnect in the next reauthorization.

Based in Rockville, Maryland, Stephen G. Pelletier writes regularly about higher education.