The Politics of Higher Education and the 2008 Reauthorization of the Higher Education Act

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THE POLITICS OF HIGHER EDUCATION AND
THE 2008 REAUTHORIZATION OF THE HIGHER EDUCATION ACT
Abstract

The lengthy and convoluted process leading to the 2008 Reauthorization of the Higher Education Act can be explained using John Kingdon's policy process model in which policy problems, possible solutions, and political alignments can converge to open a "window" through which policy entrepreneurs can advance their preferred positions. In the case of HEA'08, the problems stream was created by complaints about rising costs and higher education performance. The policy stream was propelled by the popularity of national movement toward standards-based regulation and accountability in K-12 education. The politics stream, composed of reform-minded Republican Congressional and Presidential leadership uncommitted to traditional higher education and a divided higher education advocacy coalition, was complicated by heightened partisanship and legislative paralysis. The resulting pressure successfully opened a policy window through which Republican policy entrepreneurs pursued ambitious accountability-focused regulatory reforms aimed at higher education. Although slowed by Democratic victories in 2006 and the eventual mobilization of the traditional higher education community, the idea of greater accountability captured enough momentum to move the focus of HEA’08 away from access and autonomy toward greater regulation and intervention. (Note: This paper is a significant revision of a presentation given at the April 2010 Midwest Political Science Annual Meeting in Chicago, IL.)
Introduction

The 2008 reauthorization of the Higher Education Act (HEA’08) took six years, 14 extensions, four Congresses, three shifts in partisan majorities, and parts of two budget reconciliation bills, culminating in a 1,158-page “Higher Education Opportunity Act” (HEOA) signed by President George W. Bush in August 2008. Many long-time HEA reauthorization participants interviewed for this analysis1 believed that in addition to taking longer, HEA’08 was “more partisan” than previous reauthorization cycles, focused on “cost over access,” was fragmented by budget reconciliation, and was compromised by a “broken” Congress. One observer facetiously compared the process to a bad Russian novel: “long, boring, and everyone dies.” Some participants felt the results were “the most significant since 1992,” expanding access to need-based grants, making loans cheaper and easier to repay, and broadening institutional eligibility in exchange for a few more enrollment reports. Others complained that in the end “nothing really changed,” the process “involved the same people making the same speeches on the same issues,” producing only incremental improvements in access at the price

1 Although the Purdue University IRB determined that the protocol (#0810007440) describing this research was in the exempt category because of the public nature of the material, interviewees were informed that direct quotes would not be attributed or other identifying information would be used in any published or presented analysis.
of “gimmicky” regulatory efforts while diminishing the original intent of “helping poor kids go to college.” Many, however, were concerned that HEA’08 recast the federal role in higher education “from partner to threat” and more than one saw the resurgent role of the Department of Education (DOE) and the enhanced Congressional interest in oversight as a step toward a federal system of higher education.

What really happened in HEA’08, and more importantly, why? Understanding HEA’08 is important because the Higher Education Act authorizes nearly three-quarters of all student financial aid in American colleges and universities, with consequent impact on enrollments, operations, mission, and indeed the very existence of American higher education (The College Board, 2011). If, as many claimed, the policy result of HEA’08 was to accelerate the shift in federal higher education policy away from its traditional focus on expanding access and institutional autonomy toward a new interventionist focus on assuring institutional accountability through increased regulation, understanding the how and why is essential to understanding the future of American higher education (American Council on Education, 2008; Conner & Rabovsky, 2011).

Policy process scholars posit that policy outcomes are the consequence of a particular alignment of political demands, policy options, actor resources, and institutional dynamics (Easton, 1964; Lindblom & Woodhouse, 1993; Ripley & Franklin, 1991; Sabatier, 1999). I will argue here that in the case of HEA’08, these forces converged to create what John Kingdon (2003) called a “policy window” through which politically powerful “policy entrepreneurs,” as he called them, could advance their preferred policy positions (p. 86). Refining Michael D. Cohen, James G. March, & Johan P. Olsen’s “garbage can” model of the policy process, Kingdon
proposed that on the either random or prodded occasion that “problem streams” generated by the environment raise issues to the public agenda, align with existing and proposed “policy solution streams,” and are supported by the necessary “politics streams” (e.g., public organized interests, experts, elections, partisan forces, and office holders), a “policy window” structured by institutional decision-making rules opens through which policy entrepreneurs can push the now publicly and politically supported solution through to adoption (Kingdon, 2003, pp. 86-89).

During HEA’08, problems such as rising expectations for higher education, cost concerns, and questions about higher education operations achieved public agenda status in part because these issues aligned with the standards-based regulation and accountability policies that had the political support of Republican office-holders in the White House, the executive branch, and Congress. Republican policy entrepreneurs, none of whom my informers pointed out were “elected on an higher education agenda,” capitalized on their majority position in a highly partisan environment, exploiting the relative weakness of a higher education advocacy coalition in transition and higher education’s “legitimacy paradox” in the eyes of the public to propose ambitious regulatory reforms that challenged the tradition of institutional autonomy in American higher education. Although stymied when their political support declined after the Democratic victories in 2006, reformers had captured enough momentum to move the focus in federal-higher education relations from access and affordability toward greater accountability and regulation by the time the HEA reauthorization process was completed in August 2008.

From Kingdon’s (2003) perspective, the “streams” that converged in HEA’08 had been flowing for some time. HEA’s original redistributive goals to help low- and moderate-income
students go to college had become more distributive over time as the increasing participation and salience of higher education prompted liberal needs-based grant eligibility when political (Democratic) alignments permitted (1970s), and the introduction and expansion of loans for middle class students when broader (Republican) support was needed (1980s). Expansion fueled enrollment and both federal and institutional costs, raising questions about outcomes (1990s). By the time HEA’08 got underway, budget concerns limited options and prompted (Republican) calls for greater oversight and institutional accountability. As informed observers noted at the time, the political and policy flow that led to HEA’08’s emphasis on accountability over access was and many believe will continue to be, entirely predictable (Johnstone, 1998; Spencer, 1999; Wolanin, 2003).

**Significance**

As of academic year 2010–2011, HEA authorized grant, loan, and tax benefit programs accounting for more than 74% of all student financial aid ($227.2 billion) at American colleges and universities, making the federal government the largest single source of student financial aid for college in the United States (The College Board, 2011). Originally passed in 1965 as a weapon in the War on Poverty to “help poor kids go to college,” HEA has been reauthorized eight times over the last four decades, extending its reach, expanding its mission, and defining the relationship between the federal government and American higher education as it went (Cook, 1998; Gladieux & Wolanin, 1976; Hannah, 1996; Parsons, 1997).

Table 1. *Total Student Aid by Source and Type (in Billions), 2010-2011*

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<table>
<thead>
<tr>
<th>Program</th>
<th>Amount</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal loans</td>
<td>$104.0</td>
<td>45.8</td>
</tr>
<tr>
<td>Pell Grants</td>
<td>$34.8</td>
<td>15.3</td>
</tr>
<tr>
<td>Education Tax Credits and Deductions</td>
<td>$14.8</td>
<td>6.5</td>
</tr>
<tr>
<td>Federal Work Study</td>
<td>$1.2</td>
<td>0.5</td>
</tr>
<tr>
<td>Other Federal Grant Programs</td>
<td>$14.3</td>
<td>6.3</td>
</tr>
<tr>
<td><strong>Total HEA-authorized aid programs</strong></td>
<td><strong>$169.1</strong></td>
<td><strong>74.4</strong></td>
</tr>
<tr>
<td>State Grants</td>
<td>$9.2</td>
<td>4.1</td>
</tr>
<tr>
<td>Institutional Grants</td>
<td>$38.1</td>
<td>16.8</td>
</tr>
<tr>
<td>Private and Employers Grants</td>
<td>$10.8</td>
<td>4.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$227.2</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
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*Note. Components may not sum to 100% due to rounding (The College Board, 2011).*

Table 1 demonstrates the dominance of HEA-authorized programs, especially by federally subsidized loans (45.8%), as sources of student financial aid. Institutional grants (16.8%) are the next largest aid source. Altogether, HEA accounted for $169.1 billion (74.4%) in student aid in 2010–2011, supporting 16.3 million students at more than 7,000 eligible postsecondary institutions in the U.S. and abroad (National Center for Education Statistics, 2010; The College Board, 2011). HEA’s role in financing American higher education is only likely to grow as state allocations to higher education continue to decline and the proportion of revenue from tuition continues to increase (The College Board, 2011).
Explaining HEA’08

The following analysis draws on John Kingdon’s (2003) “policy window” model of the policy process to review the environmental, issue, actor, and institutional streams that converged to produce HEA’08. Appendix A presents a timeline that highlights major HEA actions and reactions by Congress and the higher education community; HEA-related hearings are noted as illustrative of key issues and debates. Additional resources include the complex legislative record; extensive primary materials provided by participating individuals and organizations; published press, expert, and academic analysis; and personal interviews with individuals who were directly involved in more than one reauthorization cycle.

Timeline

As had the previous reauthorizations, HEA’08 began on schedule in the fall of 2002, two years before the previous reauthorization was to expire in 2004. The relevant House and Senate committees usually invite public recommendations in late fall, hold hearings during the spring and summer, draft legislation and hold mark-up sessions over the fall and winter, move through committee, floor, and conference debates and final votes in the spring, and send an approved bill to the president by summer. In the case of HEA’08, however, nothing proceeded as expected.

Environmental demands. As theory would suggest (Dye, 1966; Easton, 1957), HEA’08 participants began their reflections by commenting on the social, economic, and political conditions they believed played a significant role in shaping the process and its outcome. The most frequently cited factors included:
The growing importance of higher education. By the time the call for reauthorization recommendations went out in the fall of 2002, preparing America for the Information Age through education was a priority issue from kitchen tables to local school boards to Congress. In a flattening world where jobs could go anywhere, the global race to the top had been redefined as about producing the most educated and innovative workforce, making higher education a national as well as a personal imperative (Friedman, 2005). While higher education had shifted its focus through the millennia to adjust to social and political demands (Scott, 2006), this new responsibility for national and human well-being opened what once was a quiet intellectual enterprise affecting relatively few to a critically important national strategy (Ewell, 2008).

Higher education’s “legitimacy paradox.” Trends in public attitudes toward higher education pointed to a growing “legitimacy paradox” in which college degrees were seen as essential for career success, but the institutions themselves were at once respected and viewed with suspicion (Ewell, 2008; Spencer, 1999). A 2009 poll by the National Center for Public Policy and Higher Education, for example, found that 87% of Americans felt that high school seniors will have better job prospects if they go on to college (Immerwahr & Johnson, 2009). At the same time, the majority of Americans worried that college costs were rising so fast that many qualified students could not attend, that colleges could cut costs and retain quality, and that colleges focus too much on non-academic issues (Immerwahr & Johnson, 2009). An American Association of University Professors (AAUP) poll also found core higher education values under challenge, with only qualified public support for tenure and academic freedom and growing support for firing “radical” faculty and countering “liberal bias” (Curtis, 2006). Concurrently,
broad public dissatisfaction with the performance of K–12 education paved the way for equally broad public acceptance of federal intervention (Lowry, 2009). The tensions created by the public belief in the quality and purpose of higher education and yet resentment about rising costs, privileged status, and institutional operations provided a backdrop of mixed public messages for policy-makers throughout reauthorization.

**College enrollment/graduation trends.** The great variation in the needs, interests, and success of an increasingly diverse a population of students and institutions created another cluster of conflicting demands. By the time HEA’08 was finalized, DOE reported that 66% of high school students planned to go to college, and a diverse cadre of 17.5 million students were already enrolled in a 4,314 public, private, and for-profit, two-year and four-year, degree-granting institutions scattered across the county (NCES, 2008). In this group, 86% were undergraduates; 62% were full-time; 57% were women; 37% were in two-year institutions; and 32% were minority (National Center for Education Statistics, 2008; The Chronicle of Higher Education, 2008). Some 75% were “nontraditional” in the sense that they were not a high school graduate or did not come to college directly from high school, or were attending part-time and working full-time, or were financially independent, married, or had dependents (Wolanin, 2003). Meanwhile the student population continued to shift from private (19%) to public (74%) and for-profit institutions (7%, up from 3% over the last decade). During the same period, the student population aged and became more ethnically and racially diverse (The College Board, 2008).

**Federal and state budgets.** The fact that, as one participant noted, “the federal government is broke” meant that the “pay-go” rules (any program requiring new funding would
have to be balanced by cuts elsewhere) created a horse-trading environment for HEA’08. The primary federal reallocation targets in HEA were the generous fees and subsidies paid to private lenders to induce their participation in loan programs. Although there was bipartisan agreement that subsidies were too high, the debate was over where to reallocate the “savings.” State budgets were no refuge as K–12, Medicaid, and law enforcement spending grew and higher education’s share declined along with state revenues, a fact that resulted in state “maintenance of effort” in financing higher education becoming a major issue during HEA’08.

_The “college cost crises” and federal responsibility._ While competition for public dollars was not new to reauthorization, the rapidly rising cost of higher education created an unavoidable and consequential demand for government action in HEA’08. Myriad reports issued during HEA’08 concluded that “over the last two decades, the cost of attending two- and four-year public and private colleges ... has grown more rapidly than inflation, and faster than family income as well” (National Center for Public Policy and Higher Education, 2002, p. 5; Boehner & McKeon, 2003; National Center for Education Statistics, 2001; The College Board, 2008). Previously “cost” had been politically translated into “affordability” and ameliorated by incremental increases in Pell grants, dramatic expansion in loan options for middle-class students and families, and revolutionary tax credits through the Taxpayer Relief Act of 1997. The message that middle class families were “losing ground” in paying for college at the very moment college was becoming essential for economic well-being was a common complaint to congressmen across the country. Two-thirds of people surveyed in an NEA poll taken prior to the 2008 presidential election believed that given the importance of a college education in making the U.S. competitive in the global economy, the federal government should play a
“substantial” role in making college more affordable (National Education Association, 2008). Variations in cost by region and type of institution, uneven public–private enrollment distributions, and the complexity of college expenditures, however, made it difficult to determine what to do and for whom.

*The New Politics, partisanship, and the permanent campaign.* Landing on the political “front burner,” noted one participant, moved higher education into the full political and highly partisan fray. The traditionally bipartisan and “hands off” approach to higher education evident in earlier reauthorizations was abandoned as each party staked out claims for the education vote. Exacerbating the partisan visibility, Congress changed partisan hands on narrow margins twice. New interest groups and think tanks appeared on all sides. Old and new actors alike took up “permanent campaign” methods of polling, focus groups, media strategies, grassroots constituency mobilization through technology, unified association messages from Washington D.C., and myriad reports and studies using “scientific” data to make their point (National Association of Independent Colleges and Universities, 2008; Spencer, 1999). While neither the public nor many in Congress always saw higher education policy debate in partisan terms (Doyle, 2007; Parsons, 1997), the conflict between rising college costs and rising national and personal debt eventually forced everyone to choose sides.

*Climate for change.* Early in the reauthorization process, long-time HEA participants and observers Bruce Johnstone (1998) and Tom Wolanin (2003) predicted that for economic as well as political reasons, whatever policy shifts emerged were likely to be incremental and “more of the same” rather than dramatic redirection. Johnstone, a higher education finance expert and previous DOE analyst, argued that “something so large, complex, and politically robust as higher
education finance...together with the enormous variation already in the system, both in the per-student expenses and in the sharing of these costs, plus the existence of powerful parties with stakes in the status quo—all make revolutionary change unlikely.” He also believed that there were no credible alternatives to the current higher education finance system or to the structure of college and university operations likely to increase income or to control the cost (Johnstone, 1998, p. 253). Wolanin, previous staff director for Representative Bill Ford (D-MI) who influenced HEA reauthorizations from 1965–1992, agreed with Johnstone’s assessment of the lack of an intellectual or political foundation for major change, adding that the higher public priority of K–12 education, a bare federal budget, and close partisan balances in Congress made significant policy change in any realm including higher education unlikely. He noted, however, that the “fact that the HEA reauthorization is likely to be incremental does not mean that it will be unimportant,” especially to the millions of students and institutions affected by even small changes. He also worried that incremental changes that narrow access or increase the regulatory burden could have a significant negative impact (Wolanin, 2003, pp. 2-4). Many thoughtful observers believe that is exactly what happened.

**Policy Options.** Kingdon predicted that policy outcomes will also be affected by the nature of the policy options available to respond to demands arising from the larger environment (Kingdon, 2003). Policy scholars have long noted that that options vary depending upon the policy type as defined by impact on society, i.e. who benefits—redistributive, distributive, or regulatory—each generating its own political dynamic or “power arena” (Hayes, 2007; Lowi, 1972; Ripley & Franklin, 1991). Such typologies can be subdivided depending upon the context, the relative strength of the executive, the activism of party and Congress, and the
presence of organized interests (Hayes, 2007). Experience with a policy over time also can shift the ideas and orientations of participants as they learn to adjust to new realities and initially radical ideas become generally accepted expectations (Heclo, 1978; Weiss, 1977). Redistributive policies, for example, require strong a political consensus and inevitably become more distributive to gain support, evolving toward regulation as government investment grows (Finkin, 1994).

Not surprisingly, legislation that is as old and complex as HEA demonstrates all three policy-political patterns and subpatterns as well. Redistributive policies such as the BEOG (Pell Grant) program foreshadowed in HEA’65, for example, benefit a few at the expense of the many and require a strong executive (such as LBJ) who can control Congress (which was solidly Democratic) and mobilize public support (via the War on Poverty). As presidential interest and commitment weakened over time, Congress became more divided, and beneficiaries remained unevenly organized, support dissipated as did the focus of HEA. Predictably, distributive loans expanded and redistributive grants contracted with each reauthorization as HEA supporters sought a broader constituency (Cook, 1998; Hannah, 1996; Parsons, 1997; Ripley & Franklin, 1991).

Theory predicts that the redistributive history and distributive present of HEA will evolve into a regulatory future. The “access” theme of the 1960s and 1970s which had already broadened into “affordability” in the 1980s and 1990s became “accountability” with HEA’08. Regulatory theory holds that once government investment reaches a “tipping point,” self-regulation such as the regional peer accreditation system in higher education cannot adequately reflect the public interest or justify continuously increasing federal investment.
(Finkin, 1994; Finkin, 2009). Congress then steps in and either establishes standards or delegates the task to administrative rule-making agencies, completing the transition to a regulatory “power arena.” Old redistribution divides between a variety of haves and have-nots emerged in the HEA’08 debates on whether and how to increase Pell grants for needy students or expand income-based loan programs by reducing lender subsidies, but even these were impacted by questions about what taxpayers were getting for their money. Clearly the pressure for greater regulation was building.

*Regulation as reform.* Concurrently, the Republican president and Congressional majorities advanced a publically popular regulatory reform agenda for K–12 education, itself a convergence of public concern, the growing popularity of standards-based education, and weakness in the traditional union—Democratic Party coalition. It was therefore no surprise when the Republican president proposed a similar accountability effort for higher education, using both regulatory and legislative initiatives to challenge the traditional institutional autonomy of America’s Democratic-leaning higher education establishment. The fact that Republican reform proposals for greater regulation ran counter to its more typical laissez-faire position was an irony not lost on participants at the time. The lack of a core Republican focus on higher education—no Republican “ran on higher education” as one participant put it—also meant that reformers often responded to opposition with delay rather than force conflicts that might jeopardize higher party priorities.

The predictability of regulation was assured by central focus of the Republican majorities who controlled the executive for all and Congress for most of the reauthorization process on how to slow the rising cost of higher education. Since there was no new money for
increasing aid, the solution, so the argument went, was to control costs by closer scrutiny of how higher education institutions performed in order to hold them “accountable.” When the Republican-led EWC issued its call for HEA reauthorization recommendations in September 2002, traditional HEA access and affordability goals were acknowledged but the theme of accountability clearly dominated: expand access to higher education; ensure accountability in the use and effectiveness of federal funds; promote quality educational opportunities; address the rising costs of higher education; simplify student aid and institutional aid programs; and promote student academic preparation for postsecondary education (Workforce, 2002).

Supported by President Bush, DOE’s HEA issue list was longer, but similarly stressed efficiency, results, and accountability and looked for ways to improve performance given the “significant levels of funding for HEA programs” (Office of Postsecondary Education, 2002). The higher education community, on the other hand, was relatively satisfied with HEA and proposed to focus on traditional access and affordability issues by increasing Pell grants, making loans cheaper and easier to get and to collect, simplifying the application process, improving pre-college information and preparation, and assuring program integrity and quality (40 Higher Education Associations, 2003; American Association of State Colleges and Universities, 2003; Wolanin, 2003). A few “sideshow” issues (as they were called by one participant) sponsored by individual members of Congress or well-connected interest groups—fire safety, emergency notification, file-sharing, loan forgiveness—got a hearing and in some cases action, but many were modified in the end by the active intervention of a unified higher education community.

Accountability dominates. The subjects of House and Senate education committee hearings on HEA make clear that whether the subject was consolidated loan interest rates, Pell
grant eligibility, the impact of tax benefits, barriers to course credit transfers, questions about
the degree of intellectual freedom on college campuses, the sufficiency of peer-based
accreditation to assure quality, how to improve graduation rates, bias in international
education, concerns about the adequacy of teacher preparation programs, improving outreach,
or the fiscal integrity of minority-serving institutions—all sessions were transformed into
discussions of how to make higher education more accountable. Concerns about cost, for
example, led to discussions about how to reduce time to graduation, which raised the issue of
enrollment in multiple institutions and student stories about problems of transferring courses
across institutions, which allegedly slowed graduation and increased costs. The transfer issue
also engaged for-profit institutions concerned about the reluctance of traditional higher
education institutions to give their courses academic credit. So a contentious debate ensued
over whether or not institutional autonomy over transfers should give way to some form of
national regulation, splitting the higher education community and ending in compromise in
HEOA in which institutions were required to publish their “transfer-for-credit” policies but not
told what those policies should be. Similarly, the disparity in cost and funding sources across
public and private institutions produced a fascinating series of hearings on the use of
endowment income, prompting a bipartisan proposal requiring a percentage to be spent to
reduce tuition (which most of the higher education community opposed) that ended in an
HEOA provision for further study by the Comptroller General.

The dominance of the accountability theme during HEA’08 is also demonstrated by the
contentious and high profile debate over accreditation. The significance of the accreditation
debate is based on the requirement that a postsecondary institution must be accredited by a
federally recognized accrediting agency in order for its students to be eligible for federal financial support. The current arrangement governing higher education accreditation was created in 1952 when the U.S. Commissioner of Education published a list of “nationally recognized accrediting agencies and associations” that he determined “to be reliable authority as to the quality of training offered by an educational institution” which would then be eligible to enroll veterans under the G.I. Bill (Brittingham, 2009, p. 21). In the years since, the criteria for recognition and the authority of the federal government over institutions and programs that receive federal funds have increased, although always stopping short of programmatic control (Ewell, 2008). Currently, DOE “recognizes” some 60 regional and programmatic accrediting bodies that in turn have accredited more than 7,000 accredited institutions and programs whose students are eligible to receive Title IV funding under HEA. (See http://www.ope.ed.gov/accreditation).

Questions about how well such a federally sanctioned self-regulation process serves the public good v. private self-interest have been debated in the U.S. since before the constitution (Brittingham, 2009; Harcleroad, 1980) and frequently resurfaced during HEA reauthorizations. DOE’s complaint that accrediting bodies serve member rather than the public interest generated efforts in HEA’92 and HEA’98, for example, to eliminate the accreditation requirement or to use rule-making to set performance standards as a condition of recognition (Ewell, 2008; Finkin, 2009; Pelesh, 1995).

Although earlier efforts to set federal standards for accreditation failed in the face of united opposition from the higher education community and its congressional allies, accountability proponents renewed the battle with HEA’08. In spring 2002, DOE’s Inspector
General indicated what was to come with a short-notice audit of the standards of the Higher Learning Commission (HLC), the largest of the regional accrediting agencies, looking for “hard, specific numbers” regarding student learning thresholds or program length (Office of the Inspector General (OIG), 2002, p. 21). Its report to Congress that HLC was “not auditable” in the absence of such numerical standards set the stage for Rep. Buck McKeon (R-CA) and other reformers who made accreditation a key accountability issue at the beginning of HEA’08. Their allegation was that accreditors imposed standards that were either vague or had “nothing or little to do with academic quality” (e.g., diversity) while ignoring poor performance in graduation rates in the face of rising costs. McKeon’s solution was to give states the authority to accredit institutions using federally required performance standards, eliminating the current peer reviewed self-regulation system altogether. As HEA’08 progressed, DOE Secretary Margaret Spellings used her own No Child Left Behind (NCLB) experience and the findings of the National Commission on the Future of Higher Education returned to the strategy of proposing tougher accreditation rules in 2007, this time to include standardized testing and minimum standards for student learning as a measure of institutional quality.

Many Republicans and Democrats as well as a united higher education community considered the internationally recognized quality of American higher education synonymous with institutional autonomy. They argued that standardized achievement standards could not reflect the admirable diversity in American higher education and vigorously resisted greater government interference via accreditation regulation, raising the specter of political control of the curriculum and the end of the American higher education’s international supremacy of (Council for Higher Education Accreditation, 2005). The debate was waged in congressional
hearings, conferences, research reports, and position papers throughout the 2002–2008 reauthorization process, including an aborted 2007 effort to involve stakeholders in negotiating new DOE rules (Lederman, 2007). Senator Lamar Alexander (R-TN), a former university president and DOE secretary himself, chastised Spellings and applauded HELP’s 2007 letter asking her not to pursue accreditation regulation, arguing that Congress should work with higher education to develop better assessment methods. The Democratic House Appropriations Committee also included a prohibition against DOE accreditation regulation in its 2007 DOE budget bill. While some higher education advocates quietly acknowledged that the Secretary probably did have the legal authority to set achievement standards via accreditation regulations, clearly the concept was not an idea whose political time had come.

The final legislative result was an uneasy compromise. HEOA provisions required that accrediting agencies include measures of student achievement in the assessment of institutional quality while recognizing that measures and standards will differ with institutional mission. At the same time it denied the Secretary the authority to set such standards and changed the membership of the federal agency that approves accreditors from DOE to Congressional appointment. The process of setting recognition criteria was delegated to the negotiated rule-making process under DOE’s supervision. As Tom Wolanin (2003) had predicted, the changes were incremental but not insignificant and clearly moved the federal-higher education policy balance toward the possibility of greater regulation.

**Political actors.** How environment conditions and issues demands are translated into policy outcomes depends heavily on the preferences of political actors whose political
resources—authority, constituency, ideas, and strategy—at the time of formal decision enable them to influence the final outcome. Given the sheer complexity of the both the issues at hand and the structural fragmentation of the decision process in the American political process, policy researchers have found that each policy arena tends to be dominated by a broadly defined issue network composed of public and private individuals and organizations actively seeking to influence public policy in that particular domain (Heclo, 1978). Within a given policy arena, these actors can be aggregated into a number of “advocacy coalitions” defined by a set of shared beliefs about policy solutions that engage in “a nontrivial degree of coordinated activity” to advance shared goals. Mature advocacy coalitions maintain consensus on core beliefs and policy positions although less so on secondary aspects of implementation over long periods of time (Sabatier & Jenkins-Smith, 1999, pp. 119-124). Coalitions vary in their degree of influence over policy outcomes depending upon the context and the political resources of its members at any given time (Lowi, 1972).

**HEA issue networks.** Members of HEA-related policy subsystems include members of the education committees of Congress and their staffs, the president and the DOE, and an extensive network of higher education related associations, organizations, foundations, and individuals. This latter group can be further divided into the higher education associations representing higher education institutions and those representing specific higher education constituents or issues (known collectively and colloquially as “The Community”³), those

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³ See the Washington Higher Education Secretariat member list (Washington Higher Education Secretariat, 2009).
speaking for financial vendors and other provider groups, a growing number of private
foundations commissioned to research higher education topics (many from a particular point of
view), and an also growing number of reporters, academics, and higher education policy
analysts. Studies of the relative political resources of these higher education policy actors have
found that executive influence depends upon the priorities of the president, that the power of
the long-time HEA congressional core has declined due to retirements and partisan positioning,
and that the special interest community has fragmented and varied in influence as HEA
expanded in scope and impact (Cook, 1998; Hannah, 1996; Heclo, 1978; Parsons, 1997).

During HEA’08, the role of the executive was on the rise. From the beginning, President
Bush set the agenda and never wavered from the cost and accountability position he advanced
in the 2002 DOE strategic plan and reiterated in every subsequent budget message or policy
statement. Given his firm control over the Republican Congressional leadership (especially in
the House) and Cabinet, any proposed legislation or regulations stayed on message. The
pressure only intensified when Spellings became Secretary of DOE in January 2005 and took a
pro-active reform stance, creating the National Commission on the Future of Higher Education
and convening a number of stakeholder conversations on issues of performance, transparency,
and accountability.

Party leaders, the chairs of the key House and Senate education and budget committees
and their staffs were the critical Congressional actors in HEA’08. Republican EWC chairs John
Boehner (R-OH) and then Buck McKeon (R-CA) toed the party line and offered the most
dramatic of the reform proposals. When it was his turn, Democrat ELC chair George Miller (D-
CA) was less partisan and more collaborative, allowing wider input and hewing closer to the old
HEA social equity values and bipartisan style. Senate HELP chairs Republican Michael Enzi (R-NV) and Democrat Edward Kennedy (D-MA), who changed seats twice during reauthorization, also embodied HEA traditions and worked closely and of the same mind throughout HEA’08. Although a few old HEA hands were still in key staff roles, particularly on the Senate side, many congressional staff members were new, inexperienced with legislation as complex as HEA, and had little commitment to the past (Field, 2008). Higher education lobbyists interviewed for this analysis lamented that “we had to teach them everything!” and were especially concerned that the young staffers did not value the diversity of American higher education.

The expanding higher education network of groups seeking to influence the process also experienced change in membership and relative influence during HEA’08. Technology empowered everyone, allowing Washington, D.C.-based staffs to do a more effective job of representing, informing, and rallying their constituencies, particularly, as EWC chair McKeon complained, in opposition to any change in the status quo. The “unifying voice” of the “Brethren” — institution-member associations representing the five historically important higher education sectors and traditionally convened by the American Council on Education (ACE) — continued to fragment over specific issues, resulting in uneven access and impact on the process. AASCU, for example, did not sign off on the HEA recommendations ACE sent to

4 National Association of State Colleges and Land Grant Universities (NASCLGU), American Association of Universities (AAU), American Association of State Colleges and Universities (AASCU), National Association of Independent Colleges and Universities (NAICU), and the American Association of Community Colleges (AACC).
EWC in March 2003 on behalf of some 40 higher education associations. Instead it joined with
two student-focused organizations to support specific financial aid positions and consulted
separately with Congressional leaders and staff in the negotiations on cost issues, getting credit
in 2004 for convincing McKeon to drop the sanctions from his Cost Index plan. When the
higher education community did speak with one voice, as on the issue of accreditation,
however, it was able to gain at least compromise on the reform proposals its members found
most objectionable.

The Career College Association (CCA), representing some 950 for-profit and career-
related postsecondary institutions, continued to go its own way and opted out of ACE in fall
2002 as HEA’08 began, complaining of “being treated like second-class citizens” (Borrego, 2002,
p. A28). In Congress, Republicans liked CCA members because of the business model, and
Democrats could not help but appreciate CCA’s access goals. During HEA’08, the CCA’s fortunes
initially declined due to Congressional worries over default rates and lender kick-backs and
nearly unanimous opposition from the traditional higher education community on the transfer
issue. CAA later rebounded on the basis of the rapid enrollment growth in for-profit
institutions and the development of student learning assessment methods that fit well with the
prevailing accountability agenda. While the transfer question was in the end left unresolved,
CCA easily won its demand for relaxation of the 50% on-campus courses rule for aid eligibility
early in the process and was an effective advocate for its members’ interests throughout.

There were also rising and falling voices beyond the institutional association circle.
Student-based aid organizations partnered with community members to become more visible.
Traditionally influential financial aid and banking associations such as the National Association
of Financial Aid Administrators (NASFAA), the National Council of Higher Education Loan Providers (NCHELP) and the Consumer Bankers Association (CBA) lost influence after the “perfect storm” (as one participant called it) Cuomo investigations. A growing chorus of “think tanks” and special interest foundation voices led to the well-publicized release of HEA-related research reports and testimony—several with a clear ideological bent—which got attention and affected priorities and proposals on specific provisions. Reports from the Institute for College Access and Success (whose president was to become undersecretary of DOE for financial aid in the Barack Obama administration) on aid issues, the Education Trust on graduation rates, the College Board on aid and cost trends and options, the National Center for Public Policy and Higher Education on affordability, and the Institute for Higher Education on HEA, for example, were widely quoted in support of positions on all sides.

*Higher education advocacy coalitions.* Each HEA issue generated its own policy subsystem of actors from Congress, the executive, and special interest sectors. The subsystem created around issues related to minority-serving institutions, for example, had a different cast than the subsystem concerned with international education or that surrounding the loan limit or loan consolidation. Advocacy coalitions within each subsystem sought to advance their positions, holding firm on their core commitments and dividing on more secondary issues. AASCU’s defection from the “Brethren” on the issue of transfers or student loan limits but solid support on accreditation is illustrative.

The dominating issue of accountability in HEA’08, however, created an overarching HEA-policy subsystem composed of advocacy coalitions defined by their beliefs about the appropriate relationship between higher education and the federal government. At their core,
coalitions either took the social equity position that government should play the role HEA’65 intended by helping needy and middle-class students go to independently operated higher education institutions, or an individual freedom position in which government assures institutional quality in an otherwise open market. The former, composed of long-time HEA supporting Congressmen and staffers on both sides of the aisle, Democratic leadership, and most of the traditional higher education institutional and program network, focused on access and aid to students and the principle of institutional autonomy. The latter, represented by younger and mostly Republican members of Congress and staffers with less allegiance to the higher education establishment, budget-conscious Republican reformers and newer postsecondary institutions, argued that if institutions accept federal aid even indirectly through students, they should be held accountable through regulation. The considerable vendor community was caught somewhat in the middle, profiting from federal aid programs, but also aligning with reformers on the side of the market.

By the end of HEA’08 the cost issue had revealed fault lines cutting across both belief systems, forcing the social equity coalition to acknowledge claims for fiscal responsibility and the market coalition to recognize that the diversity of American higher education prevented a simplistic standards approach. The traditionalists had experience, organization, public recognition of the importance of higher education, and eventually Congressional control and its Democratic leadership on their side. The reformers had the presidency and his administration, Congressional control for three of the four Congresses involved, rising public questions about college costs and operations, and a willingness to challenge the status quo on theirs. Eventually partisan-led delay and public pressure forced the traditional higher education advocacy
coalition in and out of Congress to accommodate to public demands for greater transparency and accept provisions for increased reporting of costs and operations in exchange for their priority goal of more student aid support. As one observed noted, with the calls for accountability growing louder, the higher education community settled.

**Institutional dynamics.** Policy process scholars have produced extensive research to demonstrate that “regime rules”—that constellation of formal and informal policies and practices that structure the political decision making process—matter. Eleanor Ostrom’s (1999) “Institutional Analysis and Development” theory is perhaps the most fully developed explanation of why, holding that the behavior of “rational” individuals (admittedly “bounded” by their limitations) must take institutional decision-rules into account as they pursue their own self-interest. Such rules are in turn affected by history, the environment, the nature of the policies at issue, and the skills and commitments of the actors involved. In the case of HEA ’08, the rules clearly mattered, especially given the heightened partisanship of the Congressional law-making process.

**Congressional law-making process: The “broken branch”?** A critique comparing the Democrat-controlled 110th Congress to the Republican-controlled 104th (coincidentally covering the same time period as HEA’08) labeled Congress “the broken branch” for its inability to create majority coalitions sufficient, in the analysts eyes, to meet its Constitutional responsibilities for deliberative law-making, self-management, and balancing the other branches of government (Mann & Ornstein, 2006). An increase in routine and symbolic versus substantive measures passed, a decline in oversight hearings, fewer mark-up sessions, an increase in the percentage of restrictive rules for debate in the House, more minority motions to recommit, more cloture
motions in the Senate, and higher party unity scores (especially among the majority party) were interpreted as indications of a more partisan, less open, and less productive Congressional lawmaking pattern than even a decade ago (Binder, Mann, Ornstein, & Reynolds, 2009). These “patterns of dysfunctional behavior” were explained, at least partly, as “natural and understandable responses to powerful forces in the political and social environment” that had resulted in a “strikingly” partisan era in American government dominated by two strong and ideologically polarized parties operating on narrow margins among elected officials and the electorate. The resulting struggle for control of the government has, in the words of a recent Brookings report, led to “an unabashed manipulation of electoral and governing institutions to achieve political and policy goals” (Binder, Mann, Ornstein, & Reynolds, 2009, p. 3).

The case of HEA’08. Such manipulation was in full view during HEA’08. Participants interviewed for this analysis believed that the “poisonous” partisan environment in Congress resulted in a very different law-making process for HEA’08 than for previous reauthorizations. They pointed to the long delays and multiple extensions, “hi-jacking” by budget reconciliation, confrontational hearings, bitter press exchanges, limited staff interaction, closed mark-up sessions, narrow vote majorities, limited debate rules in the House, significant manager and “log-rolling” amendments, and even a minority motion (rejected on a party-line vote) to recommit in the closing Senate floor debate as examples of the prevailing “unabashed” rule manipulation by both parties for partisan ends.

Analyzing House and Senate floor votes over time, however, suggests a less dramatic and more nuanced impact of partisanship on HEA. Figures 1 and 3 (House) and 2 and 4 (Senate) present the floor vote by party on the relevant committee HEA reauthorization and budget
reconciliation proposals from 1965–2008. Several observations are relevant. First, six of the nine reauthorization votes occurred in times of divided government when the White House and at least one Chamber were controlled by different political parties. Despite the possibility of conflict, the tradition of strong bipartisan support for HEA goals has routinely resulted in extraordinary majorities on comprehensive or programmatic HEA reauthorizations. The only exceptions—HEA’86 and HEA’08 in the House—were instances when a particular issue was unusually contentious.

On the other hand, votes on means, as in budget reconciliation, rather than ends, as in the more comprehensive or programmatic reauthorizations, have more often been highly contentious and highly partisan, especially in 1993 and 2005 during times of unified government when the party in power forced its provisions through. In 1993, for example, not one Republican in the House or in the Senate voted for Clinton’s expansion of direct lending. Party roles were reversed in the 2005 reconciliation votes when Republicans insisted on higher interest rates and lender subsidies to encourage conventional market-based approaches.

Old debates were revived and new ones joined in an increasingly “poisonous partisan environment” as HEA’08 unfolded. A unified Republican 109th Congress forced contentious HEA financial provisions into reconciliation to override minority opposition, earning party-line votes on public law 109-171 and inviting a similar strategy when the Democrats gained the majority in the 110th Congress and used reconciliation to redress the policy balance.

**Conclusion: From Access to Accountability**

Guided by John Kingdon’s policy streams model (Kingdon, 2003), Figure 1 describes HEA’08 as the convergence of a problems stream of complaints about rising costs and questions...
about higher education performance; a policy stream of popular standards-based regulation and accountability; and a politics stream of heightened partisanship, reform-minded Republican control of Congress and a President uncommitted to traditional higher education, and fragmentation in the traditional higher education advocacy coalition. Republican policy entrepreneurs exploited their majority position, the relative weakness of a higher education advocacy coalition in transition, and higher education’s “legitimacy paradox” in the eyes of the public to open a policy window and propose ambitious accountability-focused regulatory reforms. Although reformers were stymied when their political support dwindled after the Democratic victories in 2006, the idea of greater accountability captured enough momentum to move the balance point in federal-higher education relations away from access and autonomy toward greater regulation and intervention.

HEA’08 ended with the passage of the 1,158 page HEOA that August. HEOA reauthorized HEA programs until 2014 and included 101 new HE reporting requirements, including textbook costs, “net cost” graduation rates by income category, transfer-of-credit policies, peer-to-peer file sharing policies, teacher licensure pass rates, emergencies, and lists of lenders. Regulations regarding relationships between institutions and private student loans were tightened; for-profits were granted a two-year loan limit reprieve; and the ban on certain kinds of HE lobbying was reiterated. DOE was prohibited from establishing a student record system or setting student achievement standards via accreditation but could require accrediting agencies do so. Pell was authorized as a year-round program and limits were increased to $8,000 by 2014. States were to be denied access to certain grants if they did not maintain the last five year’s average support ("maintenance of effort") for higher education.
Some 70 new programs were authorized (many added at the last minute to gain votes), although few were expected ever to be funded. HEOA also authorized six new studies on yet unresolved aid and higher education issues such as the amounts and uses of endowment funds, the impact of federal regulation on college cost, the possibility of racial bias in admissions tests, the mix of criteria for private loans, the burden of federal regulation of higher education, and the impact of cost and debt on student choice of programs of study and institutions.\(^5\)

The evolution of HEA into HEOA was both politically and theoretically predictable. HEA’s original redistributive goal to provide federal grants to help low-income students go to college had already become more distributive over time as participation and the desirability of a college education increased. Increased demand prompted Congress to liberalize needs-based grant eligibility when political alignments permitted and to introduce loans and tax benefits for middle class students when broader support was needed. As intended, the growth in grants and loans and expanded access by making higher education more affordable. The result was growing enrollments, increasing federal expenditures, and, less accepted, ballooning tuition costs. The combination of rising costs and demand generated questions about university operations and concerns about federal expenses. Budget constraints paralleled heightened partisanship in Congress, leading to closer scrutiny of the size and purpose of HEA’s price tag. Democrats held to the ideals of HEA’s access heritage and institutional autonomy and Republicans called for greater oversight to rein in costs and strengthen institutional accountability. Buffeted by generational shifts in leadership and fragmented by rapid structural

\(^5\) For a more detailed review of HEOA provisions, see ACE (2008).
changes in the delivery of higher education, traditional higher education actors and coalitions were able to forestall the most dramatic accountability measures and to shape specific implementation details and but, in the end, were forced to accommodate to new political realities. The resulting policy shift in HEA’08’s from access toward accountability was, as participants commented at the time, was a “foregone conclusion” (Johnstone, 1998; Spencer, 1999; Wolanin, 2003).

How far toward a “national system of higher education” the evolving policy shift takes us, however, remains uncertain. Robert Lowry’s comparative analysis of NCLB and HEOA concludes that the differences in public attitudes toward K–12 versus higher education quality; state monopoly versus institutionally competitive market structures; relatively hierarchical federal-state-local K–12 relationships versus complex federal-student-state-private institutional higher educational networks; and the greater effectiveness of higher education’s versus K–12’s organized interests in Washington make it “unlikely that there will be broad federal mandates in the foreseeable future” (Lowry, 2009, p. 522).

Many of the “streams” that influenced HEA’08 are still in flowing in the same direction and the accountability/regulatory policy window is still open. Public cost concerns have only heightened since HEAO was signed in August of 2008. Pressure for greater institutional accountability has likewise increased with warnings about the threat of a growing federal deficit. The higher education community remains divided about how to respond. The political climate continues to be polarized along party lines. And while the new Democratic administration elected only months after HEA’08 was completed supports traditional Democratic goals such as investment in higher education, it also intends to continue elements
of the Republican accountability agenda in response to public demand. The new president’s commitment to direct-lending, for example, at once opened a “policy window” for a long-sought Democratic policy preference and at the same time increased the pressure for federal regulatory intrusion in American higher education. For the moment, the wider policy window that produced greater federal pressure for greater accountability in higher education is still wide open. And unless there is a significant change either in public cost and efficacy concerns, or the policy momentum toward regulation, or dramatic shifts in political support, one can predict that, as predicted, the next HEA reauthorization will produce more of the same.
**Figures**


**Figure 2.** Senate HEA Votes, by Party, 1965–2008. Adapted from “U.S. Senate Roll Call Tables” [http://www.senate.gov/pagelayout/legislative/a_three_sections_with_teasers/votes.htm](http://www.senate.gov/pagelayout/legislative/a_three_sections_with_teasers/votes.htm) and CQ Almanac Vote Tables [http://library.cqpress.com.ezproxy.lib.ipfw.edu/cqalmanac/](http://library.cqpress.com.ezproxy.lib.ipfw.edu/cqalmanac/).

Figure 4. Senate HEA Reconciliation Votes, by Party, 1993–2007. Adapted from “U.S. Senate Roll Call Tables” [http://www.senate.gov/pagelayout/legislative/a_three_sections_with_teasers/votes.htm] and CQ Almanac Vote Tables [http://library.cqpress.com.ezproxy.lib.ipfw.edu/cqalmanac/].
Figure 5. Modeling HEA’08. Adapted from (Kingdon, 2003)
Appendix A: HEA’08 Congressional Digest

The HEA reauthorization process usually begins in the fall two years before expiration. The relevant House and Senate committees issue a call for public recommendations in late fall, hold hearings during the spring and summer, draft legislation and hold mark-up sessions over the fall and winter, move through committee, floor, and conference debates and final votes in the spring, and send an approved bill to the president by summer. HEA’08 began on schedule in fall 2002 two years before HEA’98’s scheduled 2004 expiration but eventually prompted 14 extensions spread over six years and four Congresses. The following timeline highlights major HEA actions and reactions by Congress and the higher education community. HEA-related hearings are noted as illustrative of key issues and debates.

107th Congress (2001-02): President (R); House, (R) 221-214; Senate, (D) 51-49

Second Session (2002)
- March: President Bush announces a 5-year Strategic Plan for DOE including NCLB-inspired goal using graduation and retention rates and reduction in tuition increases to judge IHE’s institutional performance and increase accountability.
- September: EWC’s chair John Boehner (R-OH) issues the traditional public call for HEA reauthorization recommendations.
- November elections: Republicans win a majority in the House and the Senate.
- December: DOE proposes a grant program to tie retention and graduation rates to financial aid funding.

108th Congress (2003-2004): President (R); House, (R) 229-206; Senate, (R) 51-49

First Session (2003)
- January-March: The higher education community (one letter signed by 40 associations, headed by ACE) present largely incremental reauthorization proposals.
- March: Rep Buck McKeon (R-CA), C21st chair, proposes a “College Affordability Index” (CPI x 2); institutions exceeding the Index could lose aid eligibility.
- Summer-fall: McKeon divides EWC’s HEA proposals into bills by title, holds hearings and oversees committee and House passage over objections of the Democratic minority and the higher education community. EWC holds hearings on affordability, simplification, loan consolidation, college costs, accountability, and minority-serving institutions.
- October: The Senate holds hearing on intellectual diversity on in universities. Sen. Kennedy introduces his largely incremental HEA proposal (S 1793).
- Higher education associations, think tanks, and industry-related organizations submit reports, responses, and counter-proposals throughout the year, influenced by surveys showing continued high public support for higher education but also growing concerns about cost and accountability (Immerwahr, 2004).
Second Session (2004)

- January: Senate Majority Leader Bill Frist (R-TN) makes HEA reauthorization a 2004 priority.
- February: President Bush reiterates his HEA performance-based goals.
- Winter: EWC staff invites several higher education associations to participate in drafting a new HEA bill (HR 4283) consolidating bills introduced the previous session; Democrats complain of exclusion.
- Winter: McKeon drops the penalties in his CAI proposal crediting AASCU, but warns against tuition increases.
- March: HELP holds hearings on accreditation, higher education-workforce relations, and year-round academic calendars, but takes no further action.
- May: The Education Trust releases “A Matter of Degrees” report on graduation rates. A coalition of higher education associations distributes a “toolkit” for lobbying against the EWC bill. McKeon and Boehner accuse the HE community of insensitivity to parents, students, and taxpayers.
- June: McKeon announces that C21st will not vote on HEA because it had become “too partisan” since Democrats were making Republican proposals a campaign issue.
- Fall: EWC and C21st hold hearings on proprietary institutions, accreditation, graduation rates, textbooks, and diploma mills.
- November elections: Republicans retain control of the Presidency and both houses of Congress.

109th Congress (2005-06): President (R); House, (R) 232-203; Senate, (R) 55-45

First Session (2005)

- January: Senate unanimously supports Margaret Spellings as DOE Secretary. Sen. Michael Enzi (R-WY) chairs HELP; House committee chairs do not change.
- January: Several HE associations meet with DOE staff about a “unit record” system to track students on financial aid; idea eventually dropped due to aggressive opposition of private colleges.
- February: President Bush’s FY06 Budget cuts HEA access programs and lender subsidies in order to expand Pell funding and loan eligibility, prompting HE opposition.
- April: The FY06 Budget Resolution passes on party-line vote and includes a budget reconciliation process requiring EWC to find $13 billion in entitlement savings by mid-September. HEA reauthorization now split (“high-jacked” according to one participant), with key grant and loan funding and operational provisions moved into the more restrictive budget reconciliation process while program authorization proceeded along the traditional legislative path.6
- Spring-Summer: EWC subcommittees hold hearings on for-profit education, the impact of aid on cost, credit mobility, private vs. public aid, and the nursing shortage; HELP holds hearings on accountability and workforce-higher education relationships.
- July: EWC passes HR 609 (a re-introduction of HR 4283 from the 108th Congress) that includes the budget reconciliation measures on a party-line vote.
- September: The Senate unanimously approves HELP’s HEA proposal (S 1614) co-sponsored by Enzi and Kennedy, attaching a less stringent budget reconciliation proposal by a 15-5 vote in October.

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6 Created in 1974 as part of the congressional budget process, “reconciliation” begins when Congress issues directives to authorizing committees to make policy changes in mandatory spending (entitlements) or revenue programs (tax laws) to achieve spending and revenue goals established by budget resolution. Intended as a spending constraint, reconciliation has become an important means for the majority party to force policy change because the resulting budget reconciliation bills are considered under special rules that limit amendment and prevent filibuster (www.rules.house.gov/archieves/bud_rec_proc.htm).
• Fall: Intending to look past reauthorization, Secretary Spellings announces the formation of the NCFHE to recommend a national strategy for strengthening higher education by focusing on access, affordability, instructional quality, and accountability.
• November: House and Senate narrowly pass budget reconciliation bills that include HEA-related financial provisions. Attempts to pass a combined HEA/reconciliation conference package (S 1932) in the Senate fail, with VP Cheney casting a tie-breaking vote that eliminated HEA-related program authorization provisions. The Senate then approves a version without the program provisions, pushing a House vote to the next session.

Second Session (2006)
• February: House narrowly approves revised HEA-budget reconciliation conference report. President Bush signs the “Deficit Reduction Act of 2005” (PL 109-171) on February 8, 2006, enacting the first of the three HEA’08 reauthorization bills. Notable changes included elimination of the 50% eligibility limit on distance students or courses; an increase in loan limits and revision and reauthorization loan provisions for eight years; higher interest fees and interest rates for parents and students for five years; and new performance-based scholarships for students in selected fields.
• February: McKeon becomes EWC chair when Boehner is elected Majority Leader. HELP holds hearings with Secretary Spellings on global competitiveness.
• March: The House approves HR 609, minus the reconciliation provisions but with many amendments on a party-line vote.
• Fall: EWC holds a field hearing on “Paying for College” and another on illegal piracy on campuses at the behest of the entertainment industry.
• September: Secretary Spellings’s NCFHE report criticizes higher education performance; DOE proposes its regulatory recommendations through the accreditation process.
• Fall: In reaction to the calls for greater accountability, AASCU and NASCLGU announce a new “Voluntary System of Accountability” (VSA) project.
• November elections: Democrats win majorities in the House and Senate, shifting the balance of power and the emphasis for HEA a second time during reauthorization process.

110th Congress (2007-08): President (R); House, (D) 223-202; Senate, (D) 51-49

First Session (2007)
• January: EWC (now ELC) and HELP chairs switch majority-minority roles. The new Democratic leadership includes increasing Pell and reducing student loan interest rates in its “Six for’06” agenda.
• February: Secretary Spellings solicits “ambitious” ideas for changing financial aid post reauthorization. The Democratic FY08 budget resolution continues the budget reconciliation process and proposes to reduce and redirect lender subsidies to Pell and other direct student aid.
• March: President’s Bush’s FY’08 budget proposes similar reductions but for deficit reduction and smaller increases in Pell.
• April: New York Attorney General Andrew Cuomo settles an investigation of “kickbacks” from lenders to certain HE institutions, creating what one observer called a “perfect storm” weakening private lender influence and adding further support to the subsidy redirection strategy.
• May: The House passes a separate “Student Loan Sunshine Act” to protect students and other borrowers receiving educational loans; Kennedy incorporates similar provisions into the Senate version of HEA.
• May: Sen. Lamar Alexander (R-TN) announces opposition to DOE reform proposals on accreditation.
• June: The House Appropriations Committee passes resolution prohibiting DOE from setting regulatory standards for the accreditation process; HELP also sends DOE a letter of opposition.
• Summer: ELC holds hearings on access, college preparation, paying for college, campus safety, teacher preparation, and minority serving institutions.

• June: HELP holds a bipartisan Executive Session on HEA and budget reconciliation.

• July: House passes ELC’s FY08 budget reconciliation bill (HR 2669) after partisan debate on new mandatory programs, cuts in lender subsidies, and the targets for redirected funds.

• July: Senate approves its reconciliation bill (S 1762) on a 78-18 vote and its HEA bill S 1642 (a re-introduction of S 1614) by a 95-0 vote with multiple amendments.

• September: The budget reconciliation conference report (HR 2669) passes both houses by large majorities. President Bush signs the budget reconciliation “College Cost Reduction and Access Act of 2007” (CCRAA) after initially threatening a veto citing Republican concerns about the size of cuts in lender subsidies, new programs, loan repayment options, loan forgiveness additions, and long-term cost. CCRAA enacted a number of the key financial provisions of HEA, resulting savings of $20 billion in subsidies for private lenders used to relax eligibility and increase Pell with permanent funds for six years rather than the usual annual appropriation, cut interest rates in half for new subsidized loans, create income-based repayment options, expand teacher education and grant eligibility, institute loan forgiveness for certain public service work, and authorize a pilot program allowing for state auctions for PLUS loans.

• October: House Republicans introduce their HEA-program version (similar in tone to HR 4283 in the 108th and HR 609 in the 109th Congresses).

• November: ELC holds hearings on rising college costs and approves its HEA- bill (HR 4137) 45-0.

• December: DOE’s Advisory Committee on Accreditation discusses possible accreditation regulations.

Second Session (2008)

• January: Sen. Max Baucus (D-MT), chair, and Sen. Charles Grassley (R-IA), ranking member, of the Senate Finance Committee, write to 136 institutions with endowments $500 million+ asking for spending information and consider requiring a 5% expenditure rate, sparking roundtables, hearings, and bipartisan pro and con testimony which extended past HEA’08.

• February: After accepting HE community-engineered compromises on definitions of “cohort default rates” and state MOE requirements, House passes HR 4137 by 354-58.

• March-April: House and Senate conferees began work. ELC and HELP continue to hold HEA-related hearings, ELC on HUBC’s, and the Senate on affordability. Congressmen and HE representatives lobby the conference committee for preferred provisions.

• May: Sen. Barbara Mikulski (D-MD) assumes Senate HEA leadership due to Sen. Kennedy’s illness. Contention over new reporting regulations, state MOE requirements, and funding for HUBCs as “minority-serving” definitions changed slows process. ELC chair Miller prods Mikulski, concerned that HEA should pass by August or be delayed by presidential election politics.

• June: AASCU, NASCLGU, and NAICU release templates for their members to use in reporting standard consumer information to enhance transparency for students and parents (VSA).

• July: The process stalls again until Sen. Tom Coburn (R-OK) agrees to lift his proposed hold as part of a larger protest on federal spending. The House passes the conference report 380-49; the Senate, 83-8-1.

• August: President Bush signs the “Higher Education Opportunity and Affordability Act of 2008 (HEOA)” (PL 110-315) on August 14, 2008, completing the HEA’08 reauthorization process.

HEOA is 1,158 pages long and reauthorizes HEA programs until 2014. It includes 101 new reporting items for institutions of higher education, including textbook costs, “net cost”, graduation rates by income category, transfer-of-credit policies, peer-to-peer file sharing policies, teacher licensure pass rates, and lists of lenders. Regulations regarding relationships between institutions and private student loans were tightened, for-profits were granted a two-year loan limit reprieve, the ban on certain kinds of higher education lobbying was reiterated,
and campuses were required to report emergencies as soon “as feasible.” DOE was prohibited from establishing a student record system or setting student achievement standards via accreditation but could require that accrediting agencies do so. Pell was authorized as a year-round program and limits were increased to $8,000 by 2014. States were to be denied access to certain grants unless they sustained the last five year’s average (“maintenance of effort”) for higher education. Some 70 new programs were authorized (many added at the last minute to gain votes), although few were expected ever to be funded. HEOA also authorized six new studies on yet unresolved aid and higher education issues such as the amounts and uses of endowment funds, the impact of federal regulation on college cost, the possibility of racial bias in admissions tests, the mix of criteria for private loans, the burden of federal regulation of higher education, and the impact of cost and debt on student choice of programs of study and institutions.7

Abbreviations:
IHE: Institutions of higher education
DOE: US Department of Education (federal office responsible for administering HEA)
EWC: House Education and the Workforce Committee (responsible for HEA in House)
C21st: EWC subcommittee on “21st Century Competitiveness” (oversaw HEA for EWC)
HELP: Senate Committee on Health, Education, Labor, and Pensions (responsible for HEA in Senate)
CAI: College Affordability Index
AASCU: American Association of State Colleges and Universities
ACE: American Council on Education
NAICU: National Association of Independent Colleges and Universities
NALGCU: National Association of Land Grant Colleges and Universities
NCFHE: National Commission on the Future of Higher Education
HBCU: Historically Black Colleges and Universities
NCLB: “No Child Left Behind” – a reference to performance-based standards in K-12 education
CCRAA: “College Cost Reduction and Access Act of 2007”
MOE: “maintenance of effort”

7 For a more detailed review of HEOA provisions see (ACE, 2008).
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