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Policy Update – House Education Committee Introduces HEA Reauthorization Bill

Lewis-Burke Associates LLC – December 8, 2017

On December 1, the House Committee on Education and the Workforce Chairwoman Virginia Foxx (R-NC) introduced H.R. 4508 *Promoting Real Opportunity, Success, and Prosperity through Education Reform* (*PROSPER*) *Act*, a comprehensive reauthorization of the *Higher Education Act* (HEA).

The bill proposes to significantly alter financial aid programs and regulations governing higher education, including the roll back of regulations covering the for-profit education sector. There is also an increased emphasis and federal funding to bolster workforce development and career alignment. Support for different modes of education delivery, such expanding federal aid to shorter term education programs and clarifying rules around competency-based education are also notable modifications to higher education policy.

Overall, the *PROSPER* Act will likely reduce aid available for students and increase borrowing costs, given the elimination of the in-school loan interest subsidy, elimination of the Federal Supplemental Education Opportunity Grant (FSEOG) program, and the elimination of loan forgiveness within loan repayment plans. Graduate students would be uniquely affected by the loss of eligibility for Federal-Work Study (FWS), the elimination of GRAD PLUS loans, and annual and lifetime caps created under the new ONE loan program. It also proposes to eliminate or limit authorized funding for several Department of Education (ED) competitive grant programs.

Positive developments proposed by the bill include the elimination of loan origination fees and a Pell Grant "bonus" that encourages completion. It also would offer greater flexibility and discretion for aid officers to limit overborrowing, while instituting new counseling requirements. The bill would offer clear authority to accreditors to implement differentiated review based on institutional performance history. Lastly, while the legislation will repeal certain burdensome regulations, it would also add a few new regulations and reporting requirements for institutions.

The House Education and the Workforce Committee announced that they will markup the bill on Tuesday, December 12. This bill has been primarily a Republican bill and will likely pass along a party-line vote. The Senate Committee on Health, Education, Labor, and Pensions (HELP) anticipates developing their own HEA reauthorization. The HELP committee has indicated its interest in pursuing a bipartisan approach and will begin that work in early 2018.

Below is Lewis-Burke's highlight of provisions that may affect institutions and students. Changes to each *HEA* title are summarized, and particular provisions are noted.

Notable *PROSPER* Act Changes Made to the Higher Education Act

Title I- General Provisions	– Changes to Several Definitions in Statute – Free Speech Protections – NACIQI – College Dashboard Website – Net Price Calculator – PBO Status of FSA – Addressing Campus Sexual Assault
Title II- Teacher Quality Enhancement	– Repeal of Teacher Quality Programs – Creation of Apprenticeship Grant Program
Title III- Institutional Aid	– Addition of CTE and "Pay-For-Success" Provisions – Completion Rate Requirement
Title IV- Student Assistance	– Pell Grant Bonus/Short-term Pell – Weekly/Monthly Distribution of Aid – TRIO Changes – Repeals FSEOG – Replaces CDR with Programmatic Loan Repayment Rates – Revised FWS formula – New ONE Loan Program – New Loan Limits – Elimination of loan forgiveness – Risk-sharing based on R2T4 – Amendments to Clery Act – Repeal of State Authorization Regulations – Changes to Accreditation
Title V- Developing Institutions	– Completion Rate for HSIs
Title VI- International Education	– Repeal of Several Grant Programs
Title VII- Graduate and Postsecondary Improvement	– Repeals Programs – Maintains GAANN
Title VIII- Additional Programs	– Title is Repealed

Title I General Provisions

This section is devoted to definitions and provisions that generally apply to most programs authorized by HEA. *PROSPER* would create a single definition for institutions of higher education and repeals or modifies the definition of credit hour, gainful employment, distance education, correspondence education, competency-based education and borrower defense.

The current "sense of Congress" on student speech and association rights is updated to note that free speech zones and speech codes are at odds with the First Amendment. Public institutions receiving financial assistance under this Act are called to not restrict student speech through speech zones or codes. The National Advisory Committee on Institutional Quality and Integrity (NACIQI) is reauthorized and the Secretary may remove any member who was appointed by a predecessor and name new members. *PROSPER* also proposes that institutions receiving Title IV aid cannot deny a religious student organization any benefit that is generally given to other student organizations at the institution.

The bill also calls for the creation of a "College Dashboard" website by the Department. In addition to general statistical information, the website would include information by program level for students who borrowed federal student loans. This would include the percentage of students who borrowed federal student loans, the average federal student loan debt by student, and median earnings of students who received federal aid at the fifth and tenth year following graduation. This seems to be a compromise between the *College Transparency Act* and a push to maintain the ban on a student-unit record system. The Dashboard would also include information for institutions that provide the majority of courses and programs through online education, including the percentage of students who are residents of the state where the institution is located, and percentage of students who are not residents of that state. Linked to the Dashboard would also be the percentage of students disaggregated by several categories including race and ethnicity, Pell status, and others.

Changes to the performance-based organization designation of the Federal Student Aid office are also proposed. *PROSPER* would require institutions with a preferred lender arrangement to comply with a code of conduct which must be published prominently on the institution's website.

Institutions would be required every three years to conduct surveys of its students to measure campus attitudes towards sexual assault and the treatment of sexual assault on campus. The results of the survey would be used to improve the institution's response to incidences of sexual assault. Each institution would also be required to retain the services of qualified sexual assault survivors' counselors. A one-page form containing information to provide guidance and assistance to students who may be victims of sexual assault would also have to be developed by schools. The bill would also encourage institutions to enter into a memorandum of understanding with local law enforcement agencies around sexual assaults on campus.

Other Provisions to Note

- Institutions would not be eligible to receive funds including Title IV funds, unless it certifies to the Secretary that it annually discloses policies relating to free speech to students, including policies that may limit speech.
- The Secretary would be prohibited from developing a postsecondary institution rating system or any other performance system to rate institutions of higher education.
- A link to the Dashboard will be provided to every student who submits the FAFSA.
- The Secretary would be directed to sunset the College Navigator website once the new Dashboard is publicly available.
- Net price calculators, posted by institutions, would be required to include cost of attendance, estimated total need-based aid, and percentage of full time undergraduate students who receive any type of grant aid.
- The federal government would be prohibited from denying federal aid, programs and facilities, withholding of any licenses, etc. to institutions of higher education with a religious mission.

<u>Title II Expanding Access to In-demand Apprenticeships</u>

This section replaces Title II's current focus on teacher quality with a section on apprenticeships. Under this section, student access to earn-and-learn programs is encouraged. The Secretary is authorized to award grants on a competitive basis to consortiums of businesses and institutions of higher education. These grants would be less than $1.5 million and would require at least a 50 percent match. The bill states that grant applications would need to describe earn-and-learn programs that require less than two years to complete the program, identify the relevant recognized postsecondary credential to be

awarded at the completion of the program, and the collection of data information as part of the required program evaluation.

PROSPER would require awards to be distributed based on the number of participants to be served by the grant, the anticipated income of program participants, and recommendations of a review panel. Funds awarded under this grant could be used for the purchase of equipment, reimbursement of wages, and other uses.

Other Provisions to Note

- $183 million is authorized to carry out this section.

Title III Institutional Aid

This section is devoted to providing grants and other financial support to institutions that serve high concentrations of minority and low-income students. This aid supports an institution's academic, financial, and administrative efforts.

PROSPER would change the name of part A of Title III to "Strengthening Minority-Serving Institutions." The bill also expands the use of grants under this title to include career and technical programs, dual enrollment, early college high school programs, pay-for-success initiatives, and other uses. A new completion rate requirement is added to the definition of eligible institutions. Minority-Serving Institutions (MSIs), other than designated historically black colleges and universities (HBCUs) or tribal colleges, would need to have a completion rate of at least 25 percent. A student would be counted as completed if they graduated or transferred within 150 percent of the normal time.

Other Provisions to Note

- Programs under this title are authorized at their FY 2017 level.
- The Secretary may waive eligibility requirements for institutions in the case of a major disaster.

Title IV Student Assistance

This section authorizes a number of programs related to financing postsecondary education. This section is the primary source of financial aid, but it also outlines requirements of institutions in order to be eligible to participate in the federal aid programs. *PROSPER* makes the wide-sweeping changes to how financial aid would be administered on campuses, and how students would repay student loans.

The bill maintains the Pell Grant program and creates a "Pell Grant bonus" of $300. These bonuses would be awarded to a student carrying a greater than full-time workload who completes no less than 30 credit hours during an award year. Pell Grant (and other federal financial aid) disbursement would be required to occur in monthly or weekly installments over the period of enrollment. Short-term programs (offered for a minimum of 10 weeks) would become eligible for Pell Grants and other federal financial aid. Funding for competency-based education (CBE) and programs offered in conjunction with alternative providers would be expanded. Schools would be allowed to make unequal disbursements during times when charges may be higher.

Authorization for TRIO programs is maintained with several proposed changes. A grantee's prior success would be not considered unless said grantee met or exceeded two or more objectives established by performance measures in its most recent award period. The Secretary is also directed to reserve at least 10 percent of funds to provide grants to applicants who have not previously received an award. Additionally, the Secretary would be prohibited from adding additional preference priorities to the grant

consideration process. The bill also proposes a matching requirement for TRIO and GEAR UP, with the possibility of a waiver. A new grant program, *Innovative Measures Promoting Postsecondary Access and Completion IMPACT*, is also created to improve postsecondary access and completion rates for individuals from disadvantaged backgrounds.

PROSPER proposes the elimination of several grant programs including Academic Competitiveness Grants, Federal Supplemental Educational Opportunity Grants (FSEOG), the Leveraging Education Assistance Partnership Program, and the Robert C. Byrd Honors Scholarship Program. No new TEACH Grants would be made after June 30, 2018. The bill would also eliminate the Cohort Default Rate (CDR) calculations for Title IV eligibility.

The bill creates a new allocation formula for Federal Work Study (FWS) called "fair share." Determinations would be based half on need and half on an institution's Pell funds. This formula would be phased in. A reserve fund would also be created to award schools with high Pell completion rates and schools that have shown significant improvement in Pell completion rates. Under *PROSPER,* graduate students would no longer be eligible for FWS. The cap on private sector employment and the community service requirement are also struck. Institutions would be instructed to prioritize awards by student need and opportunities for work-based learning.

The Federal Direct Loan program is slated for elimination. Starting July 1, 2019, existing Direct Loan (DL) borrowers would be able to borrow under current DL rules until they complete their program or until September 30, 2024. These borrowers would also be eligible for subsidized loans. New borrowers would begin under the newly created "ONE" loan program starting July 1, 2019. Subsequently, all borrowers would borrow under the ONE loan program on or after October 1, 2024. Federal ONE loans are unsubsidized and subject to annual and aggregate loan limits, which are higher than current Direct Loan limits. Access by graduate students and parents to PLUS loans, which currently have a cost of attendance cap, would be eliminated, but graduate students and parents would have access to the ONE loan program. The bill also includes instructions for the wind-down of the Perkins loan program. *PROSPER* would allow institutions to set lower loan limits for students based on several categories including a student's year in a program, credential level, enrollment intensity, and anticipated future ability to repay. Any student receiving federal financial aid would be required to receive annual counseling or disclosure on the terms and condition of their aid. The bill would also eliminate loan origination fees.

Significant changes are also proposed for loan repayment. The current standard 10-year repayment is maintained and a single, new Income-Based Repayment (IBR) plan would replace existing loan repayment plans. Borrowers in the new IBR plan would pay 15% of income, with total repayment capped at the amount of principal and interest that would have accrued under the 10-year standard plan. Several deferment and forbearance options are maintained. The bill would eliminate loan forgiveness through income-driven repayment plans and through the Public Service Loan Forgiveness (PSLF) program.

As mentioned earlier, the CDR metric is phased out and replaced with programmatic Loan Repayment Rates (LRR). Programs with a LRR that is lower than 45% for three consecutive years would lose Title IV eligibility for the remainder of the year in which the school is notified and for the following two fiscal years. The bill would require the Secretary to develop regulations to prevent methods of evading the calculation.

PROSPER would require the Secretary to develop a mobile-optimized FAFSA tool and to simplify the use of the IRS data retrieval tool. The ability-to-benefit (ATB) provision is restored in addition to establishing aid eligibility to home-schooled students. The requirement or Selective Service registration for students 26 years old or older is struck.

The bill would also make significant changes to the "Return to Title IV" (R2T4) process. According to an analysis done by the National Association of Student Financial Aid Administrators,

> *"…the percentage of aid earned would be based on a quarterly assessment of the payment period rather than a day-by-day reckoning. Depending on the range of percentages within which the student's withdrawal date occurs, the amount earned would be zero, 25, 50 or 75 percent of aid… Under the bill, the institution would be responsible for returning all unearned aid, thus introducing a concept of risk-sharing where the institution takes on the full risk of student withdrawals through the first 25 percent of their payment period."*

Several amendments are made to the Clery Act, including permitting an institution to delay or suspend an investigation or disciplinary proceeding on sexual assault for criminal investigations. Several requirements for institutional disciplinary proceedings are also specified. Additionally, institutions can establish the standard of evidence to be used in disciplinary hearings regarding sexual assaults.

State authorization guidance from 2010 and 2016 would be repealed. The bill also would prohibit the Secretary for proposing rules around state authorization. State reciprocity agreements would also be permissible under this bill. Requirements for accreditors are streamlined to include one standard on student outcomes. The bill would give authority for accreditors to use differential review, taking into account a record of performance. Accreditors would also face fewer restrictions on accrediting institutions with distance education programs.

Other Provisions to Note

- Authorizes funding for FWS at $1.72 billion, which would be almost double recent appropriations.
- Establishes the use of prior-prior year income tax data for FAFSA filing.
- The bill also eliminates the "90/10" rule, which requires for-profits schools have at least 10% of revenue from non-Title IV sources.
- Crime reporting by institutions would align to the Uniform Crime Reporting (UCR) Program at the Department of Justice and good faith efforts on reporting by institutions would be recognized by the Secretary.
- Includes changes to financial responsibility standards and provides other options for schools to prove to the Department they are financially responsible beyond the composite score.
- The chart below (from the National Association of Student Financial Aid Administrators) highlights changes to annual and aggregate loan limits

	Undergraduate Dependent	Undergraduate Independent	Graduate Student*	Parent Borrower
Current Annual Loan Limit	$5,500-7,500	$9,500-12,500	$20,500 (excluding Grad PLUS)	Up to Cost of Attendance
Annual Loan Limit Under PROSPER Act	$7,500-9,500	$11,500-14,500	$28,500	$12,500 per student
Current Aggregate Limit	$31,000	$57,500	$138,500 (excluding Grad PLUS)	None
Aggregate Limit Under PROSPER Act	$39,000	$60,250	$150,000	$56,250 per student

* Higher loan limits apply to certain health professions programs.

Title V Developing Institutions

This section authorizes grant programs for Hispanic-Serving Institutions (HSIs), including general institutional and student support grants as well as the Promoting Postbaccalaurate Opportunities for Hispanic Americans (PPOHA) program.

PROSPER would add as a condition of eligibility for Title V grant funds, a requirement that institutions have a completion rate of at least 25 percent, including graduating or transferring to another institution within 150 percent of normal time.

Other Provisions to Note

- The bill would expand the allowable uses of HSI grant funds to support career and technical training programs and dual enrollment/early college high school programs.

Title VI International Education Programs

This section authorizes numerous grant programs at the Department of Education related foreign language and international studies.

PROSPER would eliminate the Undergraduate International Studies and Foreign Language program, the Technological Innovation and Cooperation for Foreign Information Access program, the American Overseas Research Centers, the Science and Technology Advanced Foreign Language Education Grant program, and the Institute for International Public Policy

Other Provisions to Note

- Includes greater approval authority for the Secretary over the Business and International Education programs, including ensuring that programs provide a wide range of views and diverse perspectives.
- Includes new foreign gift reporting requirements.

Title VII Graduate and Postsecondary Improvement Programs

This section authorizes programs in support of graduate education as well as programs in support of disabled students. It also authorizes the Fund for the Improvement of Postsecondary Education (FIPSE)

program, which in recent years included grant funding aimed at innovation and reform in postsecondary education delivery.

PROSPER would repeal the authorization for the Jacob K. Javits Fellowship program, which supports fellowships in the arts and humanities and has not received funding since 2011. The bill would maintain the Graduate Assistance in Areas of National Need (GAANN) program, which supports graduate fellowships in high need fields, but limit the authorized funding to FY 2017 levels through FY 2024. The bill would also eliminate the FIPSE program.

Other Provisions to Note

- Repeals the Thurgood Marshall Legal Educational Opportunity Program.
- Repeals certain demonstration programs for projects supporting students with disabilities and modifies other demonstration programs related to transition to higher education, including broadening eligible applicants.

Title VIII Additional Programs

This section has authorized a variety of miscellaneous grant programs, most of which have never received funding. These authorized programs include the Centers of Excellence for Veteran Student Success and Training for Realtime Writers, as well as authorized now expired mandatory funding for both Masters Degree Programs at HBCUs and the HSI PPOHA program.

PROSPER would repeal this Title and its associated programs entirely. None of the programs are currently receiving funding.

Sources and Additional Information:

- The House Committee's website on the PROSPER Act, which includes links to their press release, fact sheet, bill summary, and bill text is at https://edworkforce.house.gov/prosper/.
- The American Council on Education has prepared a summary of the PROSPER Act, including a detailed breakdown of provisions, available at http://www.acenet.edu/news-room/Pages/ACE-Summary-of-House-Prosper-Act.aspx.