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Understanding Higher Education Bill Success in the United States Congress

Rebecca S. Natow

Abstract: It has become increasingly difficult for the two major parties in Congress to reach agreement on major higher education legislation. As a result, the Higher Education Act is long overdue for reauthorization. Congressional stalemates on higher education legislation are not conducive to effective and productive governance in this important area of federal policy. The purpose of this comparative case study is to understand why some federal higher education legislative bills are successfully enacted while others, including some with bipartisan support, are not. Through the lens of negotiation theory, this study examines six federal higher education bills in order to understand the common characteristics of successfully enacted legislation and the common characteristics of unenacted legislation. Data sources include interviews with 28 policy actors and analysis of documents relevant to each case-study bill.

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Findings from this study illuminate factors that make the passage of federal higher education bills more likely, including leadership and presidential priorities, cost savings, noncontroversial issues involving sympathetic policy beneficiaries, urgency, favorable congressional rules, support from the higher education lobby, and avoidance of political victories for the opposing party. Understanding how and why Congress members reach agreements on legislation may help forge a pathway toward more effective legislating in the higher education policy arena.

Keywords: Higher Education Policy; Federal Policy; Higher Education Act; Case Study

Historically, federal higher education policy in the United States has generally been a bipartisan issue (Gaston, 2018). Yet in recent decades, lawmakers have become less able to reach consensus on higher education policies (Doyle, 2010). As a result, important higher education legislation languishes in Congress. A case in point is the Higher Education Act (HEA), a comprehensive statute that authorizes a wide range of federal higher education programs. This includes federal student financial aid programs, which provide more than \$110 billion annually to nearly 11 million students (Federal Student Aid, 2020). The HEA also authorizes a number of additional federal programs that assist higher education institutions and students, including teacher preparation assistance, funding for colleges and universities designated as Minority-Serving Institutions (MSIs), and other funding and programming affecting higher education (American Council on Education, 2019; Hegji, 2018; Higher Education Act, 2018). The HEA is supposed to be reauthorized regularly; however, Congress has let the HEA's reauthorization lapse for years after it was due, and to date, the statute has not been reauthorized since 2008 (American Council on Education, 2019). Although this failure to reauthorize the HEA has not led to the demise of many of the statute's programs, some of those programs have been rendered unfunded (Hegji, 2018). Many programs have remained funded via short-term appropriations, but the failure to reauthorize the HEA creates uncertainty with regard to future funding and long-term prospects (Smole & Hegji, 2016). This leads to difficulty for policymakers and higher education administrators when conducting long-term planning with regard to those programs.

The failure of Congress to reach consensus around higher education policy coincides with increased substantive policymaking in the executive branch (Carmines & Fowler, 2017). For example, when Congress could not reach agreement on controversial issues regarding sexual harassment and assault policies under Title IX, the Department of Education issued guidance and, later, a detailed regulation on those matters (Anderson, 2020; Wilkins, 2019). The use of executive action may help executive-branch policymakers achieve short-term goals during periods of legislative gridlock. However, a danger of

executive action is that it concentrates a large amount of substantive policy-making power in the hands of a limited number of executive-branch officials. This includes political leadership of federal agencies who are not popularly elected, as well as the president, who is popularly elected but is just one individual. Policymaking by executive action also removes much open debate and transparency, as executive-branch policymaking often does not involve publicly accessible discussions and debates about forthcoming policies.

In recent years, both parties in Congress introduced legislation to reauthorize the HEA, but none of those proposed reauthorizations have been enacted. Although Congress has been able to pass some higher education bills—for example, the 2019 FUTURE Act that provided permanent funding for MSIs and took steps toward simplifying the Free Application for Federal Student Aid (FAFSA)—the passage of other legislation, such as a comprehensive HEA reauthorization, has remained elusive. An effective and productive Congress is important for addressing the major issues facing higher education, as well as other social and economic challenges in the United States (Volden & Wiseman, 2014). But congressional stalemates on higher education policies are not conducive to effective and productive governance in this important area of federal policy.

Understanding the influences of higher education bill success in the U.S. Congress can help forge a pathway toward more effective legislating in the federal higher education policy arena. The purpose of this study is to understand how and why some federal higher education bills are successfully enacted, while others, including some with bipartisan support, are not. This study examines six purposefully selected federal higher education bills—including two that would have reauthorized the HEA and four others—to address the following research question: *What are the characteristics and contexts of enacted and unenacted federal higher education legislation?* Findings shed light on factors that make the passage of federal higher education policies more or less likely and provide a broader understanding of how and why successful higher education policymaking takes place in the United States Congress.

LITERATURE ON BILL SUCCESS AND CONGRESSIONAL BEHAVIOR

Political scientists have considered the question of what makes congressional legislation successful or unsuccessful, although not specifically in the higher education context. Different studies define the concept of bill success in different ways. Some studies define bill success as enacted legislation (Krutz, 2000; Olzak et al., 2016), which is the definition that I adopt for this research. Other studies define bill success as passage through committee (Cox & Terry, 2008; Thomas & Grofman, 1992; Yano et al., 2012), or passage by one chamber of Congress (Adler & Wilkerson, 2005). In evaluating the

successfulness of particular legislators, Anderson et al. (2003) define success as “the number of bills the member passed” in the House of Representatives “divided by the number of bills introduced” (p. 362). Collet et al. (2020) take into account the various steps in the legislative process—introduction of a bill, committee action and passage, passage in the House of Representatives, and enactment—crediting each step in determining legislators’ effectiveness.

Among the political science literature examining bill success and failure, several studies approach this topic from the perspective of what makes individual legislators successful. For example, members of the party that controls Congress are more likely to have successful bills than members of the minority party (Anderson et al., 2003; Moore & Thomas, 1991; Volden & Wiseman, 2014; Yano et al., 2012). Similarly, leaders of congressional committees and subcommittees are more likely than nonleaders to sponsor bills that gain traction (Anderson et al., 2003; Cox & Terry, 2008; Thomas & Grofman, 1992; Yano et al., 2012). Some research indicates that bills sponsored by senior members of Congress tend to be more successful, particularly if the member is also in the majority party (Adler & Wilkerson, 2005; Cox & Terry, 2008; Krutz, 2005; Moore & Thomas, 1991). Collet et al. (2020) find that in the House of Representatives, a legislator’s status is related to bill success, but only when that legislator’s ideology is more mainstream. Anderson et al. (2003) find that “legislators who balance their activities”—that is, they “sponsor bills, but not too many, and who speak on the floor, but not too often”—are more likely than other legislators to experience bill success (p. 377).

Regarding how the characteristics of bills themselves relate to a particular bill’s success, Adler and Wilkerson (2005) demonstrate that legislation that is urgent or that deals with relatively minor, uncontroversial matters are more likely to achieve success than bills that are more discretionary to lawmakers. Bills that are neither urgent nor trivial have more success if they are sponsored by experts or ideological moderates, receive much support outside of Congress, or represent “institutional prerogatives” (p. 11). Krutz (2000) notes that combining separate policies into one omnibus bill can help their chances of passing. Additionally, while some research finds no significant difference in legislative effectiveness for men versus women (Jeydel & Taylor, 2003), Volden et al. (2018) find that bills sponsored by women relating to policy matters deemed “women’s issues” are generally less likely to succeed (p. 687). Moreover, environmental legislation tends to be more successful when sponsored by more moderate legislators (Olzak et al., 2016). These studies illustrate the importance of analyzing not only legislator characteristics but also legislative content when considering the likelihood of bill success.

Finally, contexts of Congress can influence whether bills are likely to succeed or fail. One such context is whether Congress is under united or divided political party control. Studies reveal that there is more gridlock and less bill

enactment when each chamber is controlled by a different party (divided control) than when one party holds a majority in both chambers (united control) (Binder, 1999; Krutz, 2000). Another relevant context is how closely networked Congress members are with each other. Using co-sponsoring a minimum of one bill as a measure of legislators' connectedness, Tam Cho and Fowler (2010) find that such connections are related to the enactment of significant legislation.

What is not yet known is how the three factors found by prior research to relate to bill success—legislator characteristics, bill content, and congressional contexts—work together to influence bill success in the federal higher education policy arena. Also, although some literature on political compromise invokes negotiation theory (e.g., Binder & Lee, 2013; Martin, 2013), studies of bill success generally do not employ negotiation theory as a framework for understanding why some congressional bills succeed while others do not. With education being a particularly partisan policy area (Harbridge, 2015), and with Higher Education Act reauthorizations becoming much less frequent, a study that examines higher education bill success through the lens of negotiation theory can shed light on factors and contexts that make agreement on bill enactment more or less likely.

CONCEPTUAL FRAMEWORK

According to negotiation theory, a process of negotiation leads to one of two outcomes: “agreement or impasse” (Korobkin & Zasloff, 2005, p. 6). Whether or not negotiating parties will reach an agreement depends on what each party hopes to gain from the negotiation and the extent to which each party's alternatives to an agreement are desirable (Fisher & Ury, 1981; Korobkin & Zasloff, 2005; Lande, 2017; Pinkley et al., 1994). If a party perceives its alternatives to agreement to be more desirable than the agreement itself, then the party is likely to avoid agreement. Areas of commonality that all parties find acceptable represent the “bargaining zone” (Lande, 2017, p. 93). If the parties reach agreement, it is likely to be on terms that are within the bargaining zone. However, the bargaining zone may be complicated: It could shift during negotiations; it may consist of only one possible scenario; or it may not exist at all (Korobkin & Zasloff, 2005; Lande, 2017; Schaerer et al., 2016). Moreover, even if a bargaining zone does exist, parties may nonetheless decline to reach an agreement (Korobkin & Zasloff, 2005). A party's best alternative to negotiated agreement (BATNA) is a negotiator's best-case-scenario situation if a successful negotiation with another party does not occur (Fisher & Ury, 1981; Pinkley et al., 1994). If a party deems their BATNA to be superior to anything in the bargaining zone, then the negotiations may reach an impasse (Korobkin & Zasloff, 2005). But if there is any

commonality between the parties' bargaining zones, a negotiated agreement is possible (Korobkin & Zasloff, 2005; Lande, 2017; Schaerer et al., 2016).

It is not necessarily the case that an *inability* of legislators to negotiate with each other prevents bill success; sometimes, political contexts prompt lawmakers to be *unwilling* to engage in negotiation or compromise. Gutmann and Thompson (2010) recognize that the nature and expense of contemporary politics essentially require elected officials to engage in a "permanent campaign" from one election cycle to the next (p. 1128). Political compromise is difficult during campaigns because candidates garner support from key constituents and inspire voter enthusiasm by holding fast to ideological and policy principles, which is "the opposite of a compromising mindset" (Gutmann & Thompson, 2010, p. 1128). Once elected, legislators are expected to govern, and to meet that expectation, compromises must often be made with political opponents; however, the more officials spend time campaigning for reelection, the less likely they are willing to compromise (Adler & Wilkerson, 2012; Gutmann & Thompson, 2010). Indeed, legislators are motivated by many factors other than a desire to compromise on policy. Constituency or funder demands, economics, and election-year politics are just some of the contexts that motivate Congress members' behavior and may preclude a majority of the chamber from reaching an agreement on legislation (Binder & Lee, 2013; Chafetz, 2013; Gruenbaum, 2015; Martin, 2013; Yano et al., 2012). Moreover, policymakers may propose legislation for a purpose other than bill passage, such as when a member of the minority party introduces a bill or an amendment with the goal of prompting a vote on the matter, even when clear it will not pass the full chamber, in order to draw attention to a policy priority (Gruenbaum, 2015). Gutmann and Thompson (2010) note that with regard to policymaking, maintaining the status quo is itself a policy position, and if lawmakers believe that the status quo is preferable to the level of compromise needed to achieve an agreement, they will be inclined to reject the proposed policy and maintain the status quo.

Using negotiation theory to understand why policymaking gridlock occurs, the status quo represents a possible BATNA for policymakers. If policymakers believe they would be compromising too much if a policy is enacted, then they are more likely to resist the policy and attempt to maintain the status quo (Binder & Lee, 2013). Depending on the circumstances—for example, if it is a presidential election year and policymakers in a political party different than the president's want to avoid providing the incumbent with a bipartisan legislative victory—then those members may not want to negotiate at all (Martin, 2013). In such cases, avoiding negotiation altogether is part of the BATNA. However, if a proposed policy is deemed better than the status quo by a sufficient number of Congress members—that is, if it falls within enough lawmakers' common bargaining zones—then policymakers will enact a new law, often through negotiation and political compromise.

RESEARCH METHODS AND DATA SOURCES

Approach and Case Selection

This research employs a comparative case study approach (Yin, 2014), with the cases being federal higher education bills. The comparative case-study design allows for an in-depth exploration of each case and a comparison of similarities and differences across cases (Creswell & Poth, 2018; Gibbs, 2018). A total of six bills were selected as cases for this study through a process of purposeful sampling (Maxwell, 2013), combining elements of criterion and maximum variation sampling (Creswell & Poth, 2018; Suri, 2011). The sampling criteria were: (1) bills that were proposed to reauthorize or amend some aspect of the HEA; (2) an equal number of enacted and unenacted bills; (3) an equal number of bipartisan and partisan bills; and (4) at least one bill is represented in each of the following categories: bipartisan enacted, bipartisan unenacted, partisan enacted, and partisan unenacted. This sampling strategy allows for an examination of bills involving the HEA that varied along the dimensions of time (i.e., when the bills were introduced and, if applicable, enacted), enactment status (i.e., whether the bills passed in both chambers of Congress and received the president's signature), and bipartisan support. Although the scholarly literature does not provide a consensus on a single definition of *bipartisan*, the term is generally understood to mean "the active and cooperative involvement of Republicans and Democrats in several phases of the lawmaking process," and that it "may occur between the president and Congress or within Congress" (Jones, 2005, p. 29). Therefore, for the purpose of this study, a bill is considered bipartisan if at least one of the following factors applies: (1) an enacted bill received a favorable vote from a majority of voting members in each political party in at least one chamber of Congress; (2) at least 20% of a bill's co-sponsors were from each major party (see a similar measure described in Harbridge, 2011); or (3) an enacted bill had at least one main sponsor whose political party affiliation was different from that of the president who signed the bill into law.

The six federal higher education bills that met this study's sampling criteria are described in the subsections that follow, with additional information about the characteristics and contexts of each bill appearing in Table 1.

Student Aid and Fiscal Responsibility Act (SAFRA)

Enacted in 2010, SAFRA began the phase-out of private lenders from federal student loan programs, making the U.S. Department of Education the direct lender of all federal student loans originating thereafter. SAFRA was passed as a budget reconciliation (the Health Care and Education Reconciliation Act), bringing more than \$60 billion in savings due to the elimination of private lenders from student loan programs (Dortch et al., 2010). SAFRA was one of President Obama's policy priorities for his first

TABLE 1.
INFORMATION ABOUT CASE-STUDY BILLS

<i>Bill</i>	<i>Year(s) Introduced^d</i>	<i>Year Enacted (if any)^a</i>	<i>Bipartisan^e</i>	<i>Main Sponsor(s)^f</i>	<i>Party Control^{h,c}</i>	<i>Other Important Contexts</i>
SAFRA	2009	2010	No	Rep. John Spratt (D-SC)	Dem Congress and president	Early in Obama presidency; bill passed soon after the Great Recession; ^a was part of budget recon- ciliation; HEA reauth. passed the year before SAFRA was introduced ^e
Bipartisan Student Loan Certainty Act	2013	2013	Yes (both parties in the Senate had > 50% of voting members vote in favor)	Rep. John Kline (R-MN)	GOP House; Dem Senate and president	First year of Obama's second term; five years since last HEA reauth. ^f
PROSPER Act	2017	N/A	No	Rep. Foxx (R-NC)	GOP Congress and president	First year of Trump presidency; nine years since last HEA reauth. ^f
College Affordability Act	2019	N/A	No	Rep. Scott (D-VA)	Dem House; GOP Senate and president	Eleven years since last HEA reauth. ^f
FUTURE Act	2019	2019	Yes (bill sponsor was a Democrat and bill was signed into law by a Republican president)	Rep. Alma Adams (D-NC)	Dem House; GOP Senate and president	Passed by voice vote in the Senate; ^a 11 years since last HEA reauth. ^f

College Transparency Act	2017, 2019, 2021	N/A	Yes (more than 20% of each bill's co-sponsors were from each major party)	2021House: Rep. Krishnamoorthi (D-IL); Senate: Sen. Cassidy (R-LA) 2019House: Rep. Mitchell (R-MI); Senate: Sen. Cassidy (R-LA) 2017—House: Rep. Mitchell (R-MI); Senate: Sen. Hatch (R-UT)	2017: GOP Congress and president 2019: Dem House; GOP Senate and president 2021: Dem Congress and president	2017: First year of Trump presidency and nine years since last HEA reauth.; 2019: Eleven years since last HEA reauth.; 2021: First year of Biden presidency and 13 years since last HEA reauth. ^{1a}
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Source: U.S. Congress (n.d.); ^bSource: U.S. House of Representatives (n.d.); ^cSource: U.S. Senate (n.d.); ^dSource: National Bureau of Economic Research (n.d.); ^eSource: Dortch et al. (2010); ^fSource: Fountain (2021).

term in office (Natow, 2022). It was enacted with no Republican support (Herszenhorn & Pear, 2010).

Bipartisan Student Loan Certainty Act

The Bipartisan Student Loan Certainty Act was enacted in 2013. This law set “a market-indexed, fixed interest rate structure” for federal student loans such that a loan’s interest rate would be based on ten-year Treasury note interest rates plus an additional percentage depending on what kind of student loan it was (with a smaller percentage for undergraduate than graduate loans, and a higher percentage for parent loans) (Smole, 2013, p. 3). This policy also capped interest rates, with different caps depending on the type of loan (with lower caps for undergraduate loans than graduate loans, and higher caps for parent loans) (Bidwell, 2013; Smole, 2013; Weinberg, 2013).

PROSPER Act

In 2017, when the HEA was years past due for reauthorization and the Republican party controlled the presidency and both chambers of Congress, the House Education and the Workforce Committee considered a Republican-sponsored bill to reauthorize the HEA. Introduced by then-chair of the House education committee Representative Virginia Foxx, the Promoting Real Opportunity, Success, and Prosperity through Education Reform Act (PROSPER Act) was a comprehensive bill that, among other things, would deregulate for-profit higher education, simplify the FAFSA, eliminate some forms of financial aid while expanding the federal work-study program, and provide performance accountability requirements for MSIs (Gándara & Jones, 2020; Kreighbaum, 2017b). The PROSPER Act passed the Education and Workforce Committee without Democratic support, and no action was taken on it thereafter (Congress.gov, n.d.-a; Kreighbaum, 2018a).

College Affordability Act

After the Democratic party gained control of the House of Representatives following the 2018 congressional elections, the House Education and Labor Committee considered a Democratic-sponsored bill to reauthorize the HEA (Kreighbaum, 2019d). Like the PROSPER Act, the College Affordability Act was a comprehensive piece of legislation, but it was quite different from PROSPER in many ways. Among other provisions, this legislation sought to increase regulation of for-profit higher education, provide additional funding for student financial aid, incentivize states to provide more funding for community colleges, and expand eligibility for the Pell Grant. The College Affordability Act’s provisions were estimated to have a ten-year cost of approximately \$400 billion (Kreighbaum, 2019d; Whistle et al., 2019). The bill passed the Education and Labor Committee without Republican support and was not brought to a vote on the House floor (Congress.gov, n.d.-b; Lederman, 2019).

FUTURE Act

Toward the end of 2019, amid stalled talks about reauthorizing the HEA, it came time for Congress to pass an extension of funding to MSIs under the HEA's Title III, which was about to expire. As then-chair of the Senate Health, Education, Labor, and Pensions (HELP) Committee, Senator Lamar Alexander blocked voting on a bill that would have provided a temporary extension of the funding (Kreighbaum, 2019b). Instead, Alexander proposed what resembled a “mini-reauthorization” of the HEA (Baime, 2019, ¶ 6). Alexander's bill included permanent funding for MSIs under Title III, and it also included some measures that would simplify the FAFSA, and other policies that had received bipartisan support, such as expanding Pell Grant eligibility. Democrats balked at Alexander's proposal, arguing that it was not comprehensive enough for a reauthorization, but that the narrower issue of Title III funding required immediate attention (Kreighbaum, 2019b). After much negotiation, the parties agreed to pass the Fostering Undergraduate Talent by Unlocking Resources for Education Act (FUTURE Act), which included permanent funding for Title III institutions and some simplification of the FAFSA (Jones & Brown, 2020; St. Amour, 2019).

College Transparency Act

The College Transparency Act is a bill that was introduced in multiple Congresses with bipartisan support, but to date has not been enacted.¹ This Act would eliminate a ban, initiated by the Higher Education Opportunity Act of 2008, on the Department of Education from gathering and maintaining a database of higher education student-level information. Proponents of eliminating the ban have asserted that doing so will promote transparency and enable more and better research about college students and financial aid. Opponents, which included Representative Foxx and interest groups representing private higher education, argued that such a system would raise student privacy concerns (Kreighbaum, 2017a, 2018b, 2019a; Miller, 2016).

Data Collection

Data collection involved conducting in-depth, semi-structured interviews with a range of higher education policy actors and gathering policy-relevant documents relating to all six case-study bills. Data were gathered between January and October 2020.

¹In the 117th Congress, the College Transparency Act was attached to a larger piece of legislation called the America Competes Act, which passed the House of Representatives in February 2022 (Jaschik, 2022). However, the College Transparency Act was not part of the Senate's version of the America Competes Act, and as of this writing, the College Transparency Act has not yet become law.

Interviews with Policy Actors

I conducted interviews with 28 policy actors who have worked within the federal higher education policy arena in various roles. I selected participants who played a role in federal higher education policy processes, including as White House, congressional, or federal agency staff, policy staffers at associations or think tanks, government relations personnel in higher education institutions, policy consultants, lawyers, state government officials, or similar roles. Many respondents held multiple relevant positions (e.g., a current policy director at an association who used to work for the White House or Congress). Table 2 lists all of the relevant positions held by this study's interviewees. Interviews were conducted by phone or Internet video conferencing and were audio recorded and transcribed. Interviews lasted an average of 51 minutes.

Table 3 depicts the number of study participants who were able to speak knowledgeably about each case-study bill. As the table indicates, several participants were able to speak knowledgeably about each bill, with a minimum of 9 participants for the Bipartisan Student Loan Certainty Act and a maximum of 20 for the College Transparency Act.

TABLE 2.
**INTERVIEWEES' ROLES IN THE HIGHER EDUCATION
POLICY ARENA**

<i>Role (current as of interview/former)</i>	<i>Number of Interviewees*</i>
White House staff (under Obama and Clinton)	4
Member of federal government commission or advisory board	2
Congressional staff	10
Democratic staff	9
Republican staff	1
U.S. Department of Education staff	4
Democratic administrations	3
Republican administrations	2
Other federal agency staff	3
Democratic administrations	3
Republican administrations	1
Higher education institution/system/administrator or association representing same	17
Policy staff at a think tank	3
Lawyer/Policy consultant	4
Foundation staff	2
State government staff or association representing same	4

* N=28; because this table provides information about interviewees' current (as of the interview) and former roles in the higher education policy arena, the total of this column is more than the study's total number of interviewees, and the totals of partisan breakdowns per role is sometimes more than the total number of participants in that role.

TABLE 3.
NUMBER OF INTERVIEWEES WITH BACKGROUND
KNOWLEDGE OF EACH CASE-STUDY BILL

<i>Case-Study Bill</i>	<i>Number of Interviewees with Background Knowledge of Bill</i>
SAFRA	10
Bipartisan Student Loan Certainty Act	9
PROSPER Act	14
College Affordability Act	17
FUTURE Act	17
College Transparency Act	20

Policy-Relevant Documents

This study’s policy-relevant documents reflected facts, debate, and arguments about all of the case-study bills. Documentary data also corroborated information provided by interviewees. Documents analyzed for this study included bill characteristics listed on Congress.gov, relevant pages in the *Congressional Record*, news articles, Congressional Research Service reports, and information posted on the websites of congressional committees, higher education associations, and advocacy groups. Table 4 lists each document category, the number of documents included in the analysis for each case-study bill, and the total number of each category of document included in the study.

Data Analysis

I analyzed data in multiple stages (Gibbs, 2018; Miles et al., 2019). The first stage involved coding segments of interview transcripts and policy-relevant documents for discussions of each of the case-study bills. For example, discussions of the PROSPER Act were coded “PROSPER;” discussions of SAFRA were coded “SAFRA.” Each segment of data was also coded according to whether the policy was enacted or not (e.g., segments coded as discussing SAFRA, the FUTURE Act, and the Bipartisan Student Loan Certainty Act were coded as “Enacted”; segments coded as discussing the College Transparency Act, the FUTURE Act, and the Bipartisan Student Loan Certainty Act were coded as “Bipartisan”).

In the second stage of data analysis, I exported data coded during the first stage into Microsoft Excel spreadsheets together with other similarly coded data and analyzed them again to identify broader patterns and themes relating to bill enactment or non-enactment in the higher education policy arena. Specifically, all segments of data that had been coded as both Bipartisan and Enacted were exported into a single spreadsheet, and all data coded as

**TABLE 4.
DOCUMENTARY DATA**

<i>Case-Study Bill</i>	<i>Number of Each Type of Document Analyzed</i>						
	<i>Congress.gov Webpages on Bill Information and Text</i>	<i>Congressional Committee Statements on Their Websites</i>	<i>Congressional Research Service Reports</i>	<i>Association/Advocacy Group Websites</i>	<i>Congressional Record Entries</i>	<i>Congressional Record Entries</i>	<i>News Articles</i>
SAFRA	2	40	1	4	35	40	
Bipartisan Student Loan Certainty Act	3	30	1	2	5	8	8
PROSPER Act	1	22	1	5	1	66	
College Affordability Act	1	18	1	6	0	8	8
FUTURE Act	2	18	2	5	10	15	
College Transparency Act	6	7	0	6	3	31	
TOTAL	15	135	6	28	54	168	

Partisan and Enacted were exported into a separate spreadsheet. Additionally, all data coded as Bipartisan and Unenacted were exported into a third spreadsheet, and all data coded as Partisan and Unenacted were exported into a fourth spreadsheet. I then reanalyzed all data segments in each spreadsheet to identify patterns and themes regarding characteristics and contexts of each bill. Whereas codes applied in the first stage of data analysis were purely deductive (e.g., the case-study bill names, *bipartisan* or *partisan* status, and *enacted* or *unenacted* status), codes applied in the second stage were largely inductive in that they were based on descriptions and patterns identified in respondents' statements or the texts of documents (Bingham & Witkowsky, 2021). There were also some deductive codes applied during the second stage of analysis in that statements or texts that reflected concepts from negotiation theory, the literature on political compromise, or the literature on bill success were coded for the concepts they reflected. I identified and made note of legislator characteristics, bill content, and congressional contexts, such as whether there was united or divided party control of the federal government at the time the bill was considered or enacted. This combination of deductive and inductive coding in the first two stages of data analysis enabled me to identify, define, and understand themes and data patterns regarding why some case-study bills were enacted while others were not.

The final stage involved a cross-case analysis (Gibbs, 2018; Miles et al., 2019), comparing and contrasting themes and patterns identified during the first two stages of data analysis with regard to each case-study bill. This cross-case analysis allowed for the identification of commonalities and differences across the bills and their contexts, and for an understanding of the factors that made the bills' enactment more or less likely.

Validity and Reliability

I took several steps to help ensure validity and reliability in this research. First, I gathered data from multiple sources, including different kinds of policy actors (i.e., those who worked in government and those who worked in the policy community outside government), and different types of data (i.e., interviews and policy documents). Such triangulation of data sources promotes validity and reliability by allowing findings to be confirmed by multiple pieces of data and informed by different viewpoints (Merriam & Tisdell, 2016; Miles et al., 2019). Additionally, I audio recorded the interviews (with participants' consent), which helped to promote validity by providing a verbatim account of what interviewees said. Finally, I used a semi-structured interview protocol and maintained records of steps taken in data collection and analysis, which enhanced reliability by providing a useful audit trail (Merriam & Tisdell, 2016).

FINDINGS

Characteristics associated with bill success in the federal higher education policy arena were leadership and presidential priorities, cost savings, noncontroversial issues involving sympathetic policy beneficiaries, urgency, favorable congressional rules, support from the higher education lobby, and avoidance of political victories for the opposing party.

Leadership and Presidential Priorities

Policies championed by key congressional leaders or having the strong support of the president were among the successfully enacted higher education bills. For example, the Bipartisan Student Loan Certainty Act had the support of key members of Congress. This included the chair and ranking member of the HELP Committee—who at that time were Democratic Senator Tom Harkin and Republican Senator Lamar Alexander—as well as Democratic Senator Patty Murray, who would later become the committee’s ranking member upon Harkin’s retirement (Staff Report, 2020). President Obama also supported this policy, and according to one of my study’s respondents, the president persuaded some members of his own party to help pass the bill. This interviewee, a former congressional staffer, said, “President Obama was really wanting a deal, and he let Democrats know that he was willing to make a deal with Republicans even if Democrats didn’t come along.” The Bipartisan Student Loan Certainty Act was enacted by a wide bipartisan margin, although several Democrats voted against the bill, arguing it did not go far enough to protect student borrowers (Cox, 2013).

Similarly, the successfully enacted SAFRA bill had been an important policy goal for President Obama. SAFRA phased out private banks from federal student loan programs, and this had been a policy that appeared in Obama’s budget proposal (Clark, 2010). One of my respondents said the president’s visible support of SAFRA made the bill “a priority” for both chambers of Congress.

Congressional leadership priorities also influenced the policy development process for the FUTURE Act. Indeed, the fact that Senator Lamar Alexander, who at that time was chair of the HELP Committee, was nearing retirement played a role in how the FUTURE Act emerged in its final form. Alexander had blocked the original FUTURE Act, which would have provided a temporary extension of funding to MSIs under Title III of the HEA, arguing that the funding should be permanent and combined in a bill with other higher education policies that had bipartisan support (Kreighbaum, 2019b). One of my study’s respondents shared that there was much speculation at the time that that this was an attempt by Alexander to improve his negotiating position with “a bigger bargaining chip” to move something resembling a reauthorization bill forward, as an HEA reauthorization was something Alexander

wanted to accomplish before he retired. However, the same respondent said, “That [move] didn’t really work,” as the action received a fair amount of public criticism. The Democratic leader on the HELP Committee, Senator Patty Murray, opposed Alexander’s proposal for a mini-HEA reauthorization. But Murray was under pressure from interest groups to achieve an extension of Title III funding. One of my respondents who represented MSIs described the behind-the-scenes story of how the FUTURE Act evolved to include FAFSA simplification among its provisions, which involved Senator Murray asking her staff to “find ... a long-term extension that works... So her staff went to work, and they came across this bill called the FAFSA Act... Mr. Alexander, one of his top priorities is simplification of the FAFSA form.” In fact, simplification of the FAFSA was a well-known priority for Alexander, who famously stood up in congressional hearings and held out the lengthy form, its pages tumbling down, to demonstrate its complexity (Murakami, 2020). In the end, the FUTURE Act not only provided funding for MSIs—a priority for both party leaders on the HELP Committee—but also helped Alexander achieve his pre-retirement goal of moving toward a simplified FAFSA.

When a key congressional leader opposed a bill, the bill had more difficulty making progress, as was the case with the College Transparency Act. The prohibition of the Department of Education from maintaining a student-level database, which this Act would eliminate, was originally drafted by Representative Virginia Foxx, the Republican leader on the House education committee (Kreighbaum, 2018b, 2019a). News reporting indicated that Foxx was one of the “opponents of a federal data system” (Kreighbaum, 2019a, ¶ 8). Two of this study’s respondents specifically identified Foxx’s opposition as a factor in the failure of the College Transparency Act to move far in Congress. A former congressional staffer said that the Act did “not have the support of Virginia Foxx ... as well as some other Republican leadership.” The same respondent perceived this lack of support from Foxx and other leaders as crucial, because “while [the College Transparency Act] is bipartisan, the *who* really matters in Congress.”

Cost Savings

When case-study bills were generally inexpensive or saved the government money, they were more likely to be successful. This was the case with both the FUTURE Act and SAFRA. According to some respondents, the FUTURE Act’s FAFSA simplification allowed the Internal Revenue Service to share income-tax return data of FAFSA completers with the Department of Education and eliminated other time-consuming, bureaucratic processes. The Congressional Budget Office estimated that these components of the bill would save about \$2.8 billion over a ten-year period, and those savings would enable Congress to make Title III funding permanent and provide additional funding for the Pell Grant (Staff Report, 2020; St. Amour, 2019).

Several respondents identified this feature as important for the FUTURE Act's success. A representative of MSIs explained that the cost savings associated with this bill were key selling points. This interviewee said:

The automated information-sharing from IRS and Department of Education... reduced staff time from the agencies, and as a result, that produced \$2.8 billion of savings over 10 years. [Title III funding] only used [part] of that. The remaining was reallocated to the Pell Grant program.

Similarly, SAFRA's removal of private lenders from federal student loan programs was projected to save the federal government a considerable amount of money, which would be used to cover costs of the Affordable Care Act and additional Pell Grant funding (Dortch et al., 2010). Again, this feature was identified by respondents as a factor in SAFRA's enactment, not only because the bill would pay for itself, but also because it undercut a key argument against healthcare reform. As a policy analyst interviewed for this research said:

A benefit that SAFRA had was that, because it switched to Direct Lending, it saved a lot of money ... And so the fact that that helped pay for some of the Affordable Care Act changes, [and] other changes that were in the law... it takes away a talking point from Republicans.

As these examples show, inexpensiveness was a factor of both a successful partisan bill and a successful bipartisan bill in the federal higher education policy arena.

Noncontroversial Issues and Sympathetic Policy Beneficiaries

Two of the enacted bills—the FUTURE Act and the Bipartisan Student Loan Certainty Act—were viewed as relatively noncontroversial issues. These matters were considered noncontroversial because they were relatively narrow ones for which the parties shared common goals, and the policies were designed to help sympathetic stakeholders. With regard to the FUTURE Act, Republicans and Democrats alike largely supported permanent Title III funding and FAFSA simplification, and supporting these policies was not viewed as controversial. In fact, media coverage was not sympathetic to Senator Alexander's decision to block the original bill that would have temporarily funded Title III institutions, and policymakers were concerned about the MSIs and students who would be harmed without this funding. In the words of an interviewee who advocated for MSIs, "Nobody wanted MSIs, HBCUs (Historically Black Colleges and Universities), Tribal Colleges to really be political pawns. And ... if Congress doesn't do anything or come up with a solution, it's going to impact millions of students across the country." A policy staffer at a higher education association observed that the FUTURE Act involved only "a few disparate things" and was likely facilitated by the

fact that policymakers wanted to reach an agreement on this legislation at a time when a more comprehensive HEA reauthorization was unlikely to occur. This interviewee said:

I'm going to go out on a limb here and say that knowing that comprehensive reauthorization of the Higher Education Act might be difficult or impossible in this Congress, moving the FUTURE Act forward was something that lawmakers could do to serve students and institutions of higher education.

In other words, the FUTURE Act gave policymakers the opportunity to pass a bill that would benefit students and institutions at a time when passing larger higher education legislation was highly unlikely.

Like the FUTURE Act, the Bipartisan Student Loan Certainty Act involved the limited issue of lowering student loan interest rates and fixing them to the market Treasury note rate. Although there was opposition from some progressive Democrats who argued the bill would raise interest rates in the long term, most Democrats voted in favor of the bill (Cox, 2013). Moreover, there was a general consensus between the parties on the need to lower student loan interest rates, but with key disagreements regarding how to do so and by how much. Lowering and fixing student loan interest rates was viewed as beneficial for student loan debtors, and as a former congressional staffer interviewed for this study explained, "It was a good thing for students, and I think everybody agreed on that." Students, in this context, were conceptualized as sympathetic policy targets.²

Conversely, higher education bills that contained provisions on which more than minor objections were articulated have been less likely to pass. One of the more controversial higher education issues since the 2008 HEA reauthorization has been Title IX, which prohibits sex discrimination in educational programs that receive federal funds. The two major parties have disagreed on whether Title IX also prohibits gender identity and sexual orientation discrimination and the extent to which the federal government can regulate campus disciplinary proceedings for sexual harassment or assault (Anderson, 2019, 2021). Several respondents reported that Title IX was an obstacle to the enactment of a comprehensive HEA reauthorization such as the PROSPER Act or the College Affordability Act. As a policy officer at a higher education association explained:

Most people think the Higher Education Act is about student aid and affordability. But the legislation addresses and includes ... many other complicated

²This finding aligns with the literature on the social construction of target populations, which observes that policymakers conceptualize some groups—such as higher education students—as more deserving of policy benefits, making it easier for legislators to support policies that benefit those groups (Gándara & Jones, 2020; Schneider & Ingram, 1993).

issues... [such as] the handling of an institution's response to claims of campus sexual assault. While the legislation will cover aid programs and will address certain accountability and risk measures, there are many other more complicated factors, and every issue goes up for debate.

A higher education lawyer pointed out that the HEA itself does not include Title IX, as they are codified in separate chapters of the U.S. Code (compare Higher Education Act, 2018 with Title IX of the Education Amendments of 1972, 2018). However, because Title IX affects institutions that receive federal student aid funds, HEA programs are implicated by Title IX, and policymakers consider those implications during talks about reauthorizing the HEA. This respondent explained, "It was interesting, because you had the reauthorization of the Higher Ed Act, which ... does not actually include Title IX, being hung up by Title IX and those discussions."

Provisions need not be as high-profile as Title IX to be controversial enough to lower a bill's chances of passage. A sticking point that has held up passage of the College Transparency Act has to do with implications for student privacy if the Department of Education were to maintain a student-level database. As explained above, privacy concerns were highlighted by Representative Virginia Foxx, but they were also brought up by advocates for private higher education institutions (Miller, 2016). A policy officer at a higher education association described debates surrounding the College Transparency Act as follows:

We've been generally supportive of saying, hey, we want to work towards something like this, but there's a lot of concerns about student privacy, and again, potential misuse by other elements of the government of having such a database in place.

These concerns about privacy, particularly when voiced by a congressional leader and higher education associations, have prevented a negotiated agreement on this bill with bipartisan support.

Urgency

Urgency also plays a role in higher education bill success. A feature of one of the enacted case-study bills, the FUTURE Act, was that it addressed an urgent need. In that case, Title III funding for MSIs had expired, and some institutions were planning for possible cuts in jobs and programming if the funding was not restored. As a respondent from a higher education association explained, MSIs had an "immediate concern" when Title III funding was set to expire because:

When an institution is doing their budget, they do it a year out. And some institutions were already considering having to let staff go, or put them in furlough, or reduce them to part-time, or close programs because they weren't sure if they were going to have that funding come next year.

Therefore, interest groups representing MSIs underscored the urgency of addressing the funding lapse to policymakers (Jones & Brown, 2020; Kreighbaum, 2019c). An interviewee who worked for a different higher education association expressed the sentiment surrounding the FUTURE Act as, “We all know we need to pass this, and we all know we want to pass this.” Another association’s respondent said the fact that the FUTURE Act addressed a “time sensitive” matter was a consideration in its passage. Similarly, a former White House staffer said that the FUTURE Act was viewed as “must-pass” legislation.

Urgency also played a role in the passage of the Bipartisan Student Loan Certainty Act. Three years after the bill’s passage, Independent Senator Angus King recalled in a speech on the Senate floor that a bipartisan group of lawmakers took action to pass that bill in light of “an impending deadline that would have doubled rates for student loans for millions of students across the country” had Congress not acted (162 Cong. Rec. S2688, 2016).

Just as urgency helps facilitate a higher education bill’s passage, the opposite is also true: If a piece of legislation deals with a matter that is not urgent, it is less likely to pass. For example, the College Transparency Act has bipartisan support (Kreighbaum, 2017a), but has struggled to move forward. Respondents explained that a reason for this is that the College Transparency Act does not deal with an issue that lawmakers find urgent. One former congressional staffer said of the bill, “It’s a priority for a lot of people, but it might not be the number one priority.” Because of this lack of urgency, some respondents said, policymakers are more likely to wait to include the College Transparency Act in a comprehensive bill to reauthorize the HEA, as the Democrats did with the College Affordability Act.

The College Transparency Act’s lack of urgency may also help explain why this discrete bill has not been enacted while the more urgent FUTURE Act, which also contained a discrete set of policies, did pass. Some respondents explained that Congress members may not want to pass a bipartisan but non-urgent measure like the College Transparency Act at a time when an HEA reauthorization may not be long away. As a policy observer and former White House staffer explained:

This is something that has bipartisan support, and they don’t want to pass it independently of a broader re-authorization or part of a broader bill, because they are concerned that if they pass the parts that are popular and agreeable, that means it will be harder to find areas of compromise in the much more difficult areas of the Higher Education Act.

Like the College Transparency Act, the FUTURE Act was bipartisan and a relatively narrow bill. But unlike the College Transparency Act, there was urgency to pass the FUTURE Act, as Title III funding for MSIs had lapsed. The fact that the Department of Education cannot maintain a student-level

database has not created an imminent financial catastrophe for a large number of institutions in the way that a failure to pass the FUTURE Act may have.

There was also little urgency to pass the PROSPER Act or the College Affordability Act, as these reauthorizations of the HEA were unnecessary for its programs to continue as long as Congress appropriated funding for them (Smole & Hegji, 2016). Some respondents noted that the ability of HEA programs to continue despite a lapsed reauthorization substantially decreased the likelihood that either party's HEA bill would pass. As a policy staffer at a higher education association observed, "There isn't the threat that the student loan program is going to shut down in the morning or Pell Grants are going to cease to be delivered if an HEA reauthorization does not pass". Another respondent contrasted the HEA reauthorization bills with reauthorizing the Elementary and Secondary Education Act, which occurred in 2015 (Klein, 2016). This respondent, who—like other respondents—predicted only "a small chance" that the HEA would be reauthorized in the near future, said, "I don't think enough is broken in HEA that there is the same sense of, we need to do this, whereas the K-12 space was kind of a mess at the time, with waivers and everything else that was going on... there was a sense of like, it had to be done."

A lack of urgency to reauthorize the HEA may also push a policy away from Congress's agenda when other, more pressing policy problems arise. Speaking about why the PROSPER and College Affordability Acts did not move far in Congress, a former congressional staffer explained, "There's a whole set of other things [for Congress] to deal with... There's an election, and a Supreme Court justice. Or a health care crisis. Things that take up Congress's time and attention." In the fast-moving policy world, it is relatively easy for non-urgent matters to be pushed aside as policymakers save their energy for negotiating more pressing matters.

Favorable Congressional Rules

Congressional rules that favor a bill's passage can facilitate or hinder legislative success. A case in point is the Senate filibuster rule, which can prevent a bill from coming to the floor for a vote unless at least 60 senators agree to end debate. This rule has prevented many bills from enactment unless they have the support of 60 or more senators. However, the filibuster does not apply to all bills considered by the Senate, such as budget reconciliations. Thus, Senate rules favor passage of policy items that can be included in reconciliation bills when one party holds a simple majority of seats in the chamber (Griffin, 2021).

One case-study policy, SAFRA, was enacted without bipartisan support. SAFRA passed as part of a budget reconciliation that also included funding for provisions of federal health care reform (Dortch et al., 2010). Respondents explained that part of the reason this legislative maneuver was used was so

the Democratic majority could ensure the bill would pass without Republican support, as Senate rules do not allow a filibuster to prevent voting on a budget reconciliation. Therefore, SAFRA needed only a simple majority favorable vote to pass the Senate. Because Democrats held a simple majority of seats in both chambers of Congress, SAFRA was able to pass both houses without a negotiated agreement with any Republicans.

Support from the Higher Education Lobby

Case-study bills that lacked widespread support from the higher education lobby—that is, associations representing the interests of higher education institutions in Washington, D.C.—went unenacted. Lack of higher education’s support was a key characteristic of the Republican PROSPER Act, which most of the higher education lobby strongly opposed (see also Gándara & Jones, 2020; Kreighbaum, 2017b). An association representative and former congressional staffer told me, “The entire higher education community did not support” that bill because “it would have dramatically cut back student access to loans, to grants, would have cut a lot of programs.” The higher education lobby tended to like the Democratic College Affordability Act better than PROSPER. Still, the Democrats’ bill did not garner complete support from the higher education community. A reason for this was likely the institutional accountability provisions contained in the bill.³ A former White House staffer said of the higher education lobby:

They don’t love [the College Affordability Act] because it does have accountability provisions, which a lot of the student groups and civil rights groups and other groups really want. The institutions don’t. They would like the money with no accountability. So, they’re not 100%, but they’re much more supportive there than they were on PROSPER.

With regard to the College Transparency Act, as explained above, the policy faced opposition from private higher education. Others in the higher education community took note of this opposition, and some withheld enthusiastic support for early versions of the bill. A student advocate noted that although the College Transparency Act had bipartisan support, its opponents in the higher education community were powerful. This interviewee said, “While there’s broad support for it, there is still significant resistance, and some of that resistance comes from [higher education] associations . . . that have a significant amount of power.” The fact that all of the unenacted case-study bills faced at least some opposition from the higher education lobby indicates that higher education institutions, and particularly large associations representing them, were a factor in many policymakers’ decisions not to move these bills forward.

³For more about the College Affordability Act’s accountability provisions, see Whistle et al. (2019).

Avoiding Political Victories for the Opposing Party

Finally, federal policymakers' desire not to help the opposing party achieve political victories was another reason why some higher education bills were not successful. A comprehensive HEA reauthorization, which would require bipartisan agreement to avoid a filibuster, would likely be hailed as a policy victory for the sitting president and key congressional leaders. Some respondents observed that in an election year, Congressional members are not likely to pass an HEA reauthorization that could be viewed as a political victory for their electoral opponents. Speaking about the College Affordability Act stalling in the run up to the 2020 national elections, a higher education lawyer said, "If I'm a Democrat at this point, why would I [pass an HEA reauthorization], especially when I got a real prospect of running the whole process?" This interviewee was surmising that Democrats, who did not control the Senate or the White House prior to the 2020 elections, would not want to hand President Donald Trump and congressional Republicans a bipartisan policy victory during an election year. A different respondent who worked for a higher education association reiterated that an HEA reauthorization had been difficult to achieve because "there's always an election cycle in the way." Indeed, an HEA reauthorization did not pass during that Congress, not even the mini-HEA Senator Alexander had proposed when the FUTURE Act was being negotiated, and Republicans lost control of the Senate and the White House following the 2020 elections. In this instance, the Democrats avoided negotiating an HEA reauthorization with Republicans, and that absence of negotiation did not seem to harm Democrats' electoral prospects that election year.

DISCUSSION AND CONCLUSION

Since the 2008 reauthorization of the HEA, Congress has generally adopted a piecemeal approach to enacting higher education legislation by reaching negotiated agreements on bills that were urgent, cost effective, had support from congressional leadership and the higher education lobby, and dealt with relatively uncontroversial and narrow issues. Bills that did not possess most of these qualities were less likely to be enacted. For example, the College Transparency Act faced opposition from key congressional leaders and some higher education institutions, and it was generally perceived to be nonurgent. Thus, policymakers did not reach a negotiated agreement sufficient to make this legislation law. By contrast, the FUTURE Act was budget-neutral, urgent (Title III funding for MSIs was lapsing), uncontroversial (most policymakers supported MSIs), and had the support of key congressional leaders and the higher education community. As a result, lawmakers were able to reach a negotiated agreement to pass the FUTURE Act. The passage of a higher

education bill that did not result from a negotiated agreement between the two major parties was SAFRA. In that case, congressional rules allowed the bill to avoid a filibuster, which enabled Democrats to pass the legislation along party lines. SAFRA had support from congressional leadership and was a key priority of President Obama, which made this alternative to a negotiated agreement an acceptable outcome for most congressional Democrats.

A key contribution of this study has been to conceptualize the enactment of bipartisan higher education policy as a negotiated agreement through the lens of negotiation theory. Despite some scholarship arguing that policymaking often involves an exercise in negotiation (e.g., Binder & Lee, 2013; Martin, 2013), prior literature on bill success has not applied negotiation theory to empirical questions about why particular bills are successful while others are not. For federal policymakers, maintaining the status quo or enacting a partisan policy (such as SAFRA) through a filibuster-proof method are federal policymakers' BATNA: the Best Alternative to a Negotiated Agreement (Fisher & Ury, 1981; Korobkin & Zasloff, 2005; Pinkley et al., 1994). When there are overlapping areas of agreement between the two parties, known in negotiation theory as a "bargaining zone," the parties may reach a negotiated agreement (Lande, 2017, p. 93). Otherwise, parties may prefer their BATNA.

Based on this study's findings and informed by other bill-success literature, Figure 1 depicts the legislators, bill content, and congressional contexts that face policymakers as they attempt to reach a negotiated agreement to enact higher education policy. This study found that factors such as elections, leadership priorities, pressure from stakeholders, costs, and the need for policy to address an urgent problem are all factors that influence whether policymakers would reach a negotiated agreement or prefer their BATNA, even if that means not negotiating with the other party at all. Another factor evident in the current study is the extent to which congressional rules influenced policymakers' BATNAs. For example, during the early years of the Obama administration, congressional Democrats preferred their BATNA—enacting SAFRA without any Republican support—knowing that congressional rules allowed it to pass as part of a filibuster-proof reconciliation bill. Thus, this study demonstrates how congressional rules can be leveraged to promote legislative enactment and how this can lead to a BATNA that involves bill success, albeit a highly partisan kind.

This study also provides insight into lawmakers' bill negotiation strategies. An example is when Democratic Senator Murray's staff identified a policy priority of Republican Senator Alexander (FAFSA simplification) and included it in the FUTURE Act to expand the parties' bargaining zone, which ultimately helped the bill get enacted. The FUTURE Act example also illustrates how different factors affecting bill success—individual legislators, bill content, and congressional contexts—act in concert to influence bill enactment. In

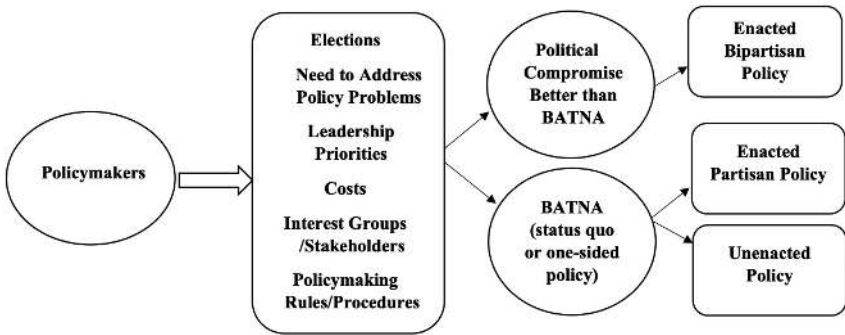


Figure 1. Higher Education Policymaking as Negotiation

the case of the FUTURE Act, the bill's success was a product of leadership priorities (legislators), an urgent need for Title III funding (content), and a long-time champion of FAFSA simplification nearing retirement (context). The FUTURE Act might have included only a temporary extension of Title III funding had Senator Alexander, closing in on his retirement, not blocked the original version of that bill in an attempt to pass more comprehensive higher education legislation. Also, FAFSA simplification might not have been included in the FUTURE Act had it not been a longtime priority of that same congressional leader.

This study's findings provide advocates with a better understanding of how negotiation works in the federal higher education policy arena. With knowledge of the circumstances under which federal higher education bills are more likely to pass, advocates can craft strategies to give the policies they prefer a possibility of passage in an increasingly polarized and gridlocked congressional climate. Findings from this research suggest that appealing to congressional leadership, gaining support from the higher education lobby, and creating a sense of urgency about the policy could help to facilitate bill success. Although controversial provisions are less likely to pass, such bills often address important policy problems and should not be brushed aside simply because their chance of enactment is considerably lower than that of noncontroversial bills. Instead, advocates should cultivate support from powerful policy actors and consider how congressional rules may make the chances of enactment more likely. For example, SAFRA was passed without bipartisan support as part of a filibuster-proof reconciliation bill. Congressional rules provide an important vehicle for facilitating or obstructing bill success in the higher education policy arena and beyond.

This study's limitations include the fact that some case-study bills were enacted ten or more years before research interviews took place. It is possible

that respondents' memories about the older bills were not as clear as their memories about more recent bills. Also, the older bills had fewer respondents discussing them than others. Another limitation is that this study included only bills that were focused squarely on higher education and involved the HEA. Future research could analyze federal bills that involved higher education plus other substantive policy areas, or areas of higher education that do not directly involve the HEA, such as the Farm Bill, which provided funding for some land-grant colleges (Kreighbaum, 2018c).

Moreover, this study contributes to the higher education policy literature by examining bill success through the lens of negotiation theory. Future research could develop this area of inquiry further by employing a different conceptual framework to understand factors that influence the success or failure of higher education bills that may not be well captured by negotiation theory. Another future study could examine higher education bill success at the state level, to understand the extent to which negotiation theory helps to explain how and why legislation is successful at the state level, or in certain state legislative contexts (e.g., states with more or less professionalized legislatures, or states with more conservative versus liberal politics). Future research may also examine the extent to which factors associated with higher education bill success in Congress, such as leadership priorities, urgency, cost savings, and election-year politics, are also associated with higher education bill success in the states.

The fact that policymakers avoid providing political victories for their opponents does not bode well for the likelihood of passing comprehensive higher education legislation, as the federal government lives in a state of "permanent campaign" (Gutmann & Thompson, 2010, p. 1128). Without a sense of urgency around the future of federal higher education programs, this study's findings suggest that the passage of comprehensive HEA reauthorizations will be difficult to achieve. Only time will tell what circumstances, if any, will prompt lawmakers to reject the BATNA of the status quo in favor of reauthorization.

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