KEEPING UP WITH THE AMERICAN DREAM: AN ANALYSIS OF THE FEDERALLY MANDATED PELL GRANT TO ENSURE EDUCATIONAL EQUALITY

Timothy Chessher *

* Symposium Editor, Seton Hall Legislative Journal, J.D. Candidate at Seton Hall University School of Law. Financial aid became important to me when my grandmother's mantra for my college application process became "don't take out loans!" The words became so ingrained that through law school, with a few small exceptions, I have remained debt-free, fully funding my own education through grants, scholarships and work-study. I can think of no better way to memorialize my experience than by sharing what I learned with others through this Note. Thank you to my late grandmother for always pushing me to achieve my dreams, to my husband for always cheering for me, and to my various mentors in all your wisdom. To all other family and friends, I could not have written this Note without you either.

I. INTRODUCTION

The Federal Pell Grant is a means-tested federal grant designated for needy college students in the United States.[1] Means-testing in the educational grant context evaluates a family's income in order to determine eligibility for grants.[2] Currently, means-testing for the Pell Grant is based on a congressionally mandated formula which seeks to ensure that students whose families are in the lowest income bracket receive the largest grants.[3] In 2016–2017, the maximum yearly Pell Grant award was $5,815.[4] As part of the Higher Education Act of 1965, the Pell Grant was originally designed to cover at least seventy-five percent of college attendance costs when combined with family contribution, student contribution, and programs like federal work-study.[5] In 1975, the Pell Grant covered approximately eighty-four percent of institutional cost of attendance for those receiving the grant.[6] By 2007, the Pell Grant covered only thirty-two percent of yearly tuition at universities.[7] Increases in tuition is one reason why the Federal Pell Grant currently covers a smaller percentage of average college attendance costs than it previously did.[8] For example, in constant 2012–2013 dollars (based on the Consumer Price Index), the average yearly cost of attendance at a four-year postsecondary institution in the United States rose from $9,823 per year in 1975 to $23,872 per year in 2013.[9] The Pell Grant has not kept pace.[10] For example, whereas average yearly

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[1] Phyllis C. Smith, *The Elusive Cap and Gown: The Impact of Tax Policy on Access to Higher Education for Low-Income Individuals and Families*, 10 BERKELEY J. AFR.-AM. L. & POL'Y 181, 192-93 (2008).

[2] *See id.*; *see also* Thomas J. Kane, *Beyond Tax Relief: Long-Term Challenges in Financing Higher Education*, 50 NAT'L TAX J. 335, 339 (1997).

[3] *See* U.S. DEP'T OF EDUC., 2014-2015 FED. PELL GRANT PROGRAM END-OF-YEAR REPORT 1, 2, https://www2.ed.gov/finaid/prof/resources/data/pell-2014-15/pell-eoy-2014-15.html (last updated June 17, 2016).

[4] *Federal Pell Grants*, FED. STUDENT AID, AN OFFICE OF THE U.S. DEP'T OF EDUC., https://studentaid.ed.gov/sa/types/grants-scholarships/pell (last accessed Mar. 12, 2017).

[5] Smith, *supra* note 1, at 193.

[6] Smith, *supra* note 1, at 201.

[7] Smith, *supra* note 1, at 201.

[8] Smith, *supra* note 1, at 197–98.

[9] NAT'L CTR. FOR EDUC. STATISTICS, *Table 330.10. Average Undergraduate Tuition and Fees and Room and Board Rates Charged for Full-Time Students in Degree-Granting Postsecondary Institutions, by Level and Control of Institution: 1963-64 Through 2012-13*, DIGEST OF EDUC. STATISTICS, http://nces.ed.gov/programs/digest/d13/tables/dt13_330.10.asp (last accessed Mar. 12, 2017).

[10] *See generally* Smith, *supra* note 1, at 198; NAT'L CTR. FOR EDUC. STATISTICS, *supra*

education costs rose by over $10,500 from 1985 to 2009 (in constant 2012–2013 dollars), the average Pell Grant award, when calculated in constant 2012–2013 dollars, rose only $439 during that same time period.[11] It has been argued that the reason education costs have increased so much is that the value of receiving education has increased in tandem.[12] But the value of the yearly Pell Grant increase must consistently keep up with education costs, which can be accomplished by improving the means-testing formula and Pell Grant amounts so that educational value received is measured per student generally, rather than per student who can *afford* a higher-value education. If the value of receiving a higher-education degree continues to increase, it is more important than ever to ensure that the government helps provide students from lower-income backgrounds with the resources needed to take advantage of higher education opportunities. There is great danger in ignoring low-income students when the quality and importance of education are at stake.[13] This Note argues that means-testing Federal Pell Grants does not do enough to help students pay for college and should be expanded to reach more students. Part II provides background on the critical need for an expanded reach of the Federal Pell Grant. Part II further explains the current methods of providing financial aid for education and how the Pell Grant is falling behind in relation to the evolution of other forms of financial aid. Part III provides a proposition on how to achieve Federal Pell Grant progression for low-income families to minimize overall student debt. Part IV addresses relevant concerns regarding expansion of means-testing for the Federal Pell Grant.

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note 9 (subtracting the cost of tuition, fees, room and board at a four-year college in 1985, $11,288, from the average cost of tuition, fees, room and board at a four-year college in 2009, $21,996, is $10,708).

[11] Smith, *supra* note 1, at 200; U.S. DEP'T OF EDUC. OFFICE OF POSTSECONDARY EDUC., 1985-86 FED. PELL GRANT PROGRAM END-OF-YEAR REPORT 1–14, https://www2.ed.gov/finaid/prof/resources/data/pell-historical/pell-eoy-1985-86.pdf (last accessed Mar. 12, 2017) (stating that the average Pell Grant award amount was $1,279 for academic year 1985–1986); DEP'T OF EDUC. OFFICE OF POSTSECONDARY EDUC., 2008-2009 FEDERAL PELL GRANT PROGRAM END-OF-YEAR REPORT, at Table 1 (Part 5 of 5), https://www2.ed.gov/finaid/prof/resources/data/pell-2008-09/pell-eoy-08-09.pdf (last accessed Mar. 12, 2017) (stating that the average Pell Grant award amount was $2,971 for academic year 2008-2009); BUREAU OF LABOR STATISTICS, CPI INFLATION CALCULATOR, http://data.bls.gov/cgi-bin/cpicalc.pl (last accessed Mar. 13, 2017). The 1985–1986 average Pell Grant value of $1,279 is equal to $2,729 in 2012. The 2008–2009 average Pell Grant value of $2,971 is equal to $3,168 in 2012. Subtracting $2,729 from $3,168, the increase from 1985 to 2008, in constant 2012-2013 dollars, is $439. *See id*.

[12] *See* Michael Simkovic, *A Value-Added Perspective on Higher Education*, U.C. IRVINE L. REV. 10 (forthcoming 2016) (on file with author).

[13] *See generally id*.

II. BACKGROUND

A. Student Debt and Loans

There are currently three main types of federal financial aid for college: grants, work-study, and loans.[14] There are additional types of financial aid, which include tax credits, aid for military service, AmeriCorps community service work aid, and scholarships.[15] In the 2013–2014 academic year, approximately eighty-five percent of full-time students at four-year colleges received some type of financial aid.[16] In 2014, seven out of ten college graduates graduated with loans.[17] Such students graduated with an average of $28,950 in student loan debt, with some colleges reporting average debt for students in excess of $60,000.[18] In comparison, the average debt per student borrower in the 1995-1996 school year was $12,000 and student borrowers accounted for only fifty-two percent of bachelor's degree recipients at public institutions.[19] The overall starting salary for college graduates in 1993 was $23,000, and, though the starting salary for 2013 college graduates was $45,327, when adjusted for inflation, the salary has increased by only $8,000.[20] Each year, the amount of student debt taken on by graduates increases at a rate greater than that of those graduates' starting salaries.[21] From 2013 to

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[14] *Types of Aid*, FED. STUDENT AID, AN OFFICE OF THE U.S. DEP'T OF EDUC., https://studentaid.ed.gov/sa/types (last accessed Mar. 12, 2017).

[15] *Id.*

[16] *Fast Facts*, NAT'L CTR. FOR EDUC. STATISTICS, https://nces.ed.gov/fastfacts/display.asp?id=31 (last accessed Mar. 12, 2017).

[17] *Project on Student Debt*, THE INST. FOR COLL. ACCESS & SUCCESS, http://ticas.org/posd/map-state-data-2015 (last accessed Mar. 12, 2017).

[18] *See id.*; *see also* THE INST. FOR COLL. ACCESS & SUCCESS, STUDENT DEBT AND THE CLASS OF 2014, at 2 (Oct. 2015), http://ticas.org/sites/default/files/pub_files/classof2014.pdf.

[19] JACQUELINE E. KING, *Student Borrowing: Is There a Crisis?*, *in* STUDENT LOAN DEBT: PROBLEMS AND PROSPECTS 1, 2–3 (1997); *see also* CPI INFLATION CALCULATOR, *supra* note 11. $12,000 in 1997 is equal to $18,078 in constant 2012-2013 dollars. Therefore, when adjusted for inflation, the average student debt has increased by over $10,000 in approximately seventeen years, and the cost to students attending college has increased at a rate far exceeding inflation. *See* CPI INFLATION CALCULATOR, *supra* note 11.

[20] KING, *supra* note 19, at 3; *Salary Survey: Average Starting Salary for Class of 2013 Grads Increases 2.4 Percent*, SEATTLE BUS., http://www.seattlebusinessmag.com/blog/salary-survey-average-starting-salary-class-2013-grads-increases-24-percent (last accessed Mar. 12, 2017); *see* CPI INFLATION CALCULATOR, *supra* note 11. A starting salary of $23,000 in 1993 is equal to $37,080 in constant 2012-2013 dollars, which is approximately $8,000 lower than average starting salary of college graduates in 2013. *See* CPI INFLATION CALCULATOR, *supra* note 11.

[21] *See* Jeffrey Sparshott, *Congratulations Class of 2015. You're the Most Indebted Ever (For Now)*, WALL ST. J. (May 8, 2015), http://blogs.wsj.com/economics/2015/05/08/congratulations-class-of-2015-youre-the-most-indebted-ever-for-now/ (stating that when adjusted for inflation, student loan borrowers have more than twice the amount of loans to pay back than student borrowers did twenty years ago). Student loan amounts have doubled

2015, the average amount of student debt has increased by approximately $5,000.[22] Furthermore, in recent years, only sixty percent of college graduates with loans were making regular loan payments after one year of the start of their loan repayment period.[23] Without congressional action, if student debt continues to rise at a rate that is the same or higher than that of starting salaries, then there could be great consequences, including more student loan defaults.

B. Higher Education Act of 1965 and Succeeding Amendments

The Higher Education Act of 1965 was enacted to "strengthen the educational resources of . . . colleges and universities and to provide financial assistance for students in postsecondary and higher education."[24] The Act was passed in response to the success of the National Defense Education Act of 1958 ("NDEA").[25] Originally, the NDEA was a bill enacted during the height of the Cold War to incentivize college students to pursue science and technology programs.[26] Such innovation was spurred by competition with the Soviet Union when the country was contemplating sending the Sputnik into space.[27] The NDEA included the National Defense Student Loan program ("NDSL") to stimulate public lending for those wishing to participate in science and technology programs and to provide public loans for those who could not acquire them.[28] Part of the purpose of the NDSL was to ensure that "no

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over two decades, on average, when adjusted for inflation, but starting salaries have increased by approximately twenty-two percent, when adjusted for inflation. *See* KING, *supra* note 19, at 3; *Salary Survey*, *supra* note 20; *see also* CPI INFLATION CALCULATOR, *supra* note 11 (stating that an increase from the 1993 average starting salary of college graduates, $37,080 (in constant 2012-2013 dollars), when compared to the average starting salary for college graduates in 2013, $45,327, equals an increase of approximately twenty-two percent over twenty years). Average student debt has increased from $10,000 in 1993 ($16,121 in constant 2012-2013 dollars) to approximately $32,000 in 2013, which equates to a 100% increase in average student debt per indebted graduate. *See* Sparshott, *supra* note 21; *see also* CPI INFLATION CALCULATOR, *supra* note 11.

22 *Salary Survey*, *supra* note 20.

23 Robert C. Cloud & Richard Fossey, *Facing the Student-Debt Crisis: Restoring the Integrity of the Federal Student Loan Program*, 40 J.C. & U.L. 467, 468–69 (2014).

24 HIGHER EDUCATION ACT OF 1965, Pub. L. No. 89-329, 79 Stat. 1219 (1965).

25 *See generally* Pamela Ebert Flattau et al., SCI & TECH. POL'Y INST., THE NAT'L DEFENSE EDUCATION ACT OF 1958: SELECTED OUTCOMES I-1 to II-10 (2007) ("In 1958, the U.S. Congress enacted the National Defense Education Act (NDEA) (P.L. 85-864) to ensure the security of the Nation through the 'fullest development of the mental resources and technical skills of its young men and women . . .' Title II of the NDEA established the National Defense Student Loan (NDSL) . . . . [and] spurred the creation of federal- and university-funded college loan programs that still exist today.").

26 *Id.* at ES-1, I-1.

27 *Id*.

28 *Id.* at II-1.

student of ability would be denied higher education opportunities because of financial need."[29] Response to the NDSL was generally positive as it was widely implemented, though funding was not enough to cover the cost of education at public or private educational institutions.[30] Nine out of ten borrowers participating in the program, many from low-income families, depended on the loans to begin, and sometimes continue, college.[31] The popularity of the NDSL and the accessibility it provided led to the passage of the Higher Education Act of 1965, which further provided new loan programs, such as the Stafford Loan, for students from low-income families.[32]

The Higher Education Act was passed in the same era as the Civil Rights Act of 1964, which prohibited racial or ethnic discrimination in universities that receive federal aid.[33] Subsequently, Congress passed the 1972 Education Amendments, which prohibited gender discrimination in higher education.[34] The goals of these acts were to "increase diversity . . . [and] equal opportunity" in education.[35] Of additional importance, Congress enacted amendments to the Higher Education Act in 1992, which liberalized need analysis, increased loan maximums, and created the Unsubsidized Stafford Loan.[36] The Higher Education Opportunity Act of 2008 was the most recent major amendment, which supported Federal Pell Grants, TRIO programs for pre-college students from disadvantaged backgrounds, science and engineering grants, and grants to improve international education.[37] The financial aid system assists more than just those students with extreme need: with the advancement of technology and engineering in a global market, middle-class families, too, are provided with grant incentives in higher education.[38] The current state of financial aid remains consistent with the goals of financial aid from the era of the NDEA by providing grants for science and technology to advance the nation's economy and ensure that no one is denied access

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29 *Id.* at II-5.

30 *See id*. at II-4 to II-6.

31 *Id*. at II-6.

32 Cloud & Fossey, *supra* note 23, at 473.

33 *See* Higher Education Act of 1965, Pub. L. No. 89-329, 79 Stat. 1219 (1965); THE Civil Rights Act of 1964, 42 U.S.C. § 2000d (1964); *see also* Amanda Harmon Cooley, *Promissory Education: Reforming the Federal Student Loan Counseling Process to Promote Informed Access and to Reduce Student Debt Burdens*, 46 CONN. L. REV. 119, 130 (2013).

34 Cooley, *supra* note 33, at 131.

35 Cooley, *supra* note 33, at 131.

36 KING, *supra* note 19, at 2-3.

37 Julie Margetta Morgan, *Consumer Driven Reform of Higher Education: A Critical look at New Amendments to the Higher Education*, 17 J.L. & POL'Y 531, 541 (2009).

38 *See id*.

to higher education due to a lack of financial resources.[39] Furthermore, goals of financial aid in preventing racial, ethnic, and gender discrimination remain cornerstones of financial aid, cornerstones consistent with those originally inspired by the Civil Rights Act of 1964.[40]

C. Problems with the Current Pell Grant Means-Testing Formula

Eligibility for the Federal Pell Grant is determined by a congressionally mandated formula, which considers the extent to which a student's family can contribute to the expenses of higher education.[41] Family contribution, also known as Expected Family Contribution ("EFC"), is determined by filling out the Free Application for Federal Student Aid ("FAFSA") form.[42] The EFC is calculated by a formula based on a number of factors, including: (a) income of the student, spouse and student's parents; (b) number of household family members; (c) number of dependent family members in post-secondary education at the time of filing the financial aid application; (d) student's marital status; (e) assets of student, spouse, and student's parents; (f) age of student, and if a dependent student, age of student's older parent; and (g) any additional expenses incurred by dual employment of dependent student's parents or when dependent student's household is headed by single parent.[43]

If a student is independent, the factors are the same, except the information about the student's parents is excluded, and the additional expenses incurred factor includes such expenses incurred by employment of the student's spouse, if married, or when the employed student qualifies as a surviving spouse or head of household.[44] Most relevant for the current discussion is that these factors limit access to the Federal Pell Grant. In addition, as tuition prices increase to upwards of $50,000 per year, the maximum Pell Grant award of $5,815 per year does little to

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39 Flattau et al., *supra* note 25, at II-5.

40 *See* Flattau et al., *supra* note 25, at II-5 (noting the purpose of the NDEA is to provide equal access to educational opportunity regardless of financial need); *see also* Cooley, *supra* note 33, at 127-33 (suggesting initiatives to promote goals of increasing access to higher education by decreasing discrimination in higher education funding for women and minorities); The Civil Rights Act of 1964, 42 U.S.C. § 2000d (1964).

41 *See* Kane, *supra* note 2, at 339; *see also* U.S. DEP'T OF EDUC., *supra* note 3.

42 *Expected Family Contribution (EFC)*, FED. STUDENT AID, AN OFFICE OF THE U.S. DEP'T OF EDUC., https://fafsa.ed.gov/help/fftoc01g.htm (last accessed on Mar. 25, 2017); *see also How Aid is Calculated*, FED. STUDENT AID, AN OFFICE OF THE U.S. DEP'T OF EDUC., https://studentaid.ed.gov/sa/fafsa/next-steps/how-calculated (last accessed Mar. 25, 2017).

43 Higher Education Amendments of 1992, Pub. L. No. 102-305, § 474(b), 106 Stat. 448, 587 (1992).

44 *Id*.

combat growing costs of attendance at universities.[45] The Higher Education Act and its amendments have shifted financial aid focus from grants to loans over the past forty years.[46] If average student loan debt continues to increase at a rate of $5,000 per graduate every two years, students will be underwater, and the current $1.2 trillion total student debt mass will go at least partially unpaid.[47] Although loans have helped provide education for low-income students in the past, the Expected Family Contribution formula has not changed since 1992, and it is well overdue for an upgrade.[48]

D. The Effect of the Federal Pell Grant on Students (and Particularly Students of Families in the Lowest Income Brackets)

The current Pell Grant amount is insufficient.[49] Students of lower-income families are more sensitive about the cost of attendance.[50] A recent study suggested that if grant aid increases by $1,000, the probability of college attendance increases by 3.6%.[51] The study was further applied to students of low-income families, finding that a $1,000 price increase of tuition decreased college enrollment at two-year public institutions by 4.5% but decreased enrollment of students at four-year institutions by only 0.8%.[52] Since two-year public higher education institutions enroll disproportionate numbers of lower-income students as compared to public four-year institutions, the study concluded that price

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[45] Morgan, *supra* note 37, at 542–43; *see Federal Pell Grants*, *supra* note 4 (stating that the maximum Pell Grant award per year per student is $5,815).

[46] Morgan, *supra* note 37, at 541.

[47] Sparshott, *supra* note 21 (showing that average student debt per person has increased by about $5,000 from 2013 to 2015); Chris Denhart, *How the $1.2 Trillion College Debt Crisis is Crippling Students, Parents and the Economy*, FORBES (Aug. 7, 2013), http://www.forbes.com/sites/specialfeatures/2013/08/07/how-the-college-debt-is-crippling-students-parents-and-the-economy/.

[48] *Compare* Higher Education Amendments of 1992, Pub. L. No. 102-325, §§ 474-77, 106 Stat. 448, 587-94 (1992), *with* Higher Education Opportunity Act, Pub. L. No. 110-315, 122 Stat. 3078 (2008) (Sections 474-77 were not amended from the 1992 amendments to the most newly revised version of the Higher Education Act, the Higher Education Opportunity Act of 2008. Therefore, the need analysis and congressionally mandated formulas for Pell Grant eligibility and EFC have remained the same for twenty-five years.).

[49] Rachel B. Rubin, *The Pell and the Poor: A Regression-Discontinuity Analysis of On-Time College Enrollment*, 52 RESEARCH IN HIGHER EDUC. 675, 675 (2011).

[50] *Id*.

[51] Kerry A. Ryan, *Access Assured: Restoring Progressivity in the Tax and Spending Programs for Higher Education*, 38 SETON HALL L. REV. 1, 12 (2008).

[52] *Id*.

sensitivity for lower-income students was a general phenomenon.[53]

Additionally, wages increase by eleven percent per year of education an individual pursues after high school.[54] On average, a four-year college degree increases an individual's lifetime earnings by forty percent.[55] These numbers suggest that as little as $1,000 could determine whether individuals decide to attend college.[56] One study showed that increasing the Pell Grant by $1,000 can increase the amount of credits a first-year student in college earns by at least one credit.[57] Furthermore, the study noted that the most debt-averse students were likely to be first-generation college students.[58] An important conclusion of the study is that, for community colleges in particular, schools can and should control the amount of loans that students take out when listing financial aid available to students in their financial aid package.[59] This would reduce the amount of loans that students take out and could maximize the use of Pell Grant funds at lower-cost schools.[60] This is not to say that if loans were available and required for student enrollment they could not be taken out (though some schools do not participate in the public student loan program, requiring students to seek private loans), but simply that loans should be limited to reduce debt for the most debt-averse students.[61] The Pell Grant's maximum award of $5,815 covers more of the total cost of attendance at a two-year college, but at the most elite four-year

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53 *Id*.

54 Michael Simkovic, *Risk-Based Student Loans*, 70 WASH. & LEE L. REV. 527, 539 (2013).

55 *Id*.

56 *See* Ryan, *supra* note 51, at 12; Simkovic, *supra* note 54, at 539.

57 Benjamin M. Marx & Lesley J. Turner, *Borrowing Trouble? Student Loans, the Cost of Borrowing, and Implications for the Effectiveness of Need-Based Grant Aid* 2 (Nat'l Bureau of Econ. Research, Working Paper No. 20850, 2015). The study suggests that, on average, students receiving Pell Grants with similar amounts of unmet need at CUNY, the focus group for the study, borrow (much) less than the average Pell Grant-receiving students at public schools across the nation, with borrowing rates of four percent for CUNY students and sixty-three percent for the national average Pell Grant recipient. *Id.* at 13–14. The study also found that students at CUNY schools whose SAT scores compared to the average national Pell Grant recipient population were more likely to be younger, classified as dependent, Hispanic, without parents who attended college, of first- or second-generation immigrant backgrounds, and *more debt averse*. *See id.* at 14. That CUNY students were more debt-averse was attributed to whether and how schools informed their students about loans—the more students were told that they could borrow loans (and with higher amounts), the more they borrowed, whereas alternative methods of informing about financial aid resulted in less borrowing. *Id.* Furthermore, the possibility that CUNY students and the national Pell Grant recipients attending a public university or college has the same or similar level of debt aversion was inconclusively studied but should not be ruled out. *Id.* at 32.

58 Marx & Turner, *supra* note 57, at 14.

59 Marx & Turner, *supra* note 57, at 34.

60 Marx & Turner, *supra* note 57, at 34.

61 Marx & Turner, *supra* note 57, at 34.

universities, where tuition and fees can easily exceed $50,000 per year, the Pell Grant does little to equalize educational opportunity.[62]

E. Tax Credits

In the 1990s, tax credits in the form of the Hope Scholarship and the Lifetime Learning Credits became a way to ensure that the middle class did not bear the burden of more liberalized Pell Grant need analysis.[63] The Hope Scholarship Credit provides up to a $1,650 federal tax credit based on the cost of tuition and fees.[64] The other federal tax credit available to students and families is the Lifetime Learning Credit, which allows a tax credit of twenty percent for up to $10,000 in yearly tuition costs for students and families.[65] But if a taxpayer has taken a tuition payment deduction, the tax credits are unavailable.[66] Further, a taxpayer may take one tax credit per student.[67] This simplified version of an educational tax system is but a small part of the complex tax incentives for education that confuse student and parent taxpayers.[68] Furthermore, cumbersome requirements for the credits might outweigh any benefits received.[69] Complex requirements for tax incentives result in tax credits failing to reach the targeted taxpayers.[70] Of such taxpayers, the lowest-income taxpayers are the least likely to understand complex tax incentive provisions.[71] Tax provisions can be helpful but rarely are they the simplest and most effective way to equalize financial aid.

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62 *See Tuition and Fees*, VASSAR COLLEGE, https://admissions.vassar.edu/financial-aid/tuition.html (last accessed Mar. 13, 2017) (stating that tuition for the 2016–2017 school year was $52,320); *see also Cost of Attendance*, SARAH LAWRENCE COLL., https://www.sarahlawrence.edu/financial-aid/undergraduate/cost-of-attendance.html (last accessed Mar. 13, 2017) (stating that tuition for the 2016-2017 school year was $51,196).

63 Ryan, *supra* note 51, at 8.

64 Deborah H. Schenk & Andrew L. Grossman, *The Failure of Tax Incentives for Education*, 61 TAX L. REV. 295, 299 (2008).

65 *Id*.

66 *Id.* at 300.

67 *Id.* at 300.

68 Sean M. Stegmaier, *Tax Incentives for Higher Education in the Internal Revenue Code: Education Tax Expenditure Reform and the Inclusion of Refundable Tax Credits*, 37 SW. U. L. REV. 135, 151 (2008).

69 *Id.* at 152–53 ("Taxpayers themselves must navigate the[] provisions' highly complex eligibility requirements . . . [and] must consider and analyze the following: the interaction among the various provisions, the expiring nature of some of the incentives, which incentives will provide the greatest benefit, different definitions for similar concepts throughout the provisions, different income limitations, and the various recordkeeping requirements. This complexity likely results in many taxpayers' making suboptimal choices on their returns, and thus not taking full advantage of the tax benefits available to them.").

70 *Id.* at 151.

71 *Id*.

F. Complexity of the Current Need Based Formula

The federal formula for determining Estimated Financial Contribution ("EFC") is currently predicated on the following factors for independent and dependent students: (a) income of the student, spouse, and student's parents; (b) number of household family members; (c) number of dependent family members in post-secondary education at the time of the financial aid application; (d) student's marital status; (e) assets of the student, spouse, and student's parents; (f) age of student, and if a dependent student, age of student's older parent; (g) any additional expenses incurred, if a dependent student, when the student's parents are both employed or the student's household is headed by a single parent who is employed, or, if an independent student, when the student is married and the student's spouse is employed or the employed student qualifies as a surviving spouse or head of household.[72] Financial need can be calculated then by subtracting the EFC based on the factors above from cost of attendance ("COA"), which includes tuition, fees, books, supplies, room, board, transportation, and any miscellaneous expenses a student is expected to incur per year in college.[73] Then, based on further income adjustments and assets calculations for students and families—including the "adjusted available income" that can be paid from cash assets, income, and accounts for contribution to student's COA in college—financial aid can be determined.[74] This formula is complex, with many interweaving factors, but it can be simplified to mean that families sending a student to school are expected to pay no more for qualifying educational expenses than forty-seven percent of their adjusted gross income ("AGI") per year and 5.64% of their includable allowable assets, including cash assets, net worth of non-retirement investments, and adjusted business assets.[75] Still, the simplified version is complex because it requires calculation after calculation of various data elements, leading experts to criticize the methodology as being inaccessible to many students and families who are not well-versed in the complex financial aid methodology employed by the federal government.[76]

72 Higher Education Amendments of 1992, Pub. L. No. 102-325, § 474(b), 106 Stat. 448, 587 (1992).

73 Ryan, *supra* note 51, at 16.

74 Ryan, *supra* note 51, at 17–18.

75 Ryan, *supra* note 51, at 18.

76 *See generally* Sandy Baum & Judith Scott-Clayton, *The Hamilton Project, Redesigning the Pell Grant Program for the Twenty-First Century* 10–11 (Oct. 2013), http://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/THP_BaumDiscPaper_Final.pdf ("The complexity and bureaucracy of the Pell application process can impose significant barriers to participation, and can undermine program effectiveness by filtering out

There are two current exceptions to the often burdensome EFC formula. The first exception is similar to the EFC formula but does not include assets in the Adjusted Gross Income.[77] Specifically, the first exception can be claimed for dependent students in 2015–2016 when:

> the parents' combined AGI (for tax filers) or income earned from work (for non-filers) was less than $50,000; and either:
> (1) the parents were not required to file an IRS Form 1040,
> (2) one of them is a dislocated worker as defined in the Workforce Innovation and Opportunity Act (see Chapter 2 for a description of dislocated worker), or
> (3) anyone counted in their household size received a means-tested federal benefit during 2014 or 2015.[78]

Independent students can claim the exception to utilize the simplified formula the same way that dependent students can, except that the word "parents" in the simplified formula criteria above is replaced with the words "student and spouse."[79] The second exception can be claimed when an independent student (and spouse) or the parents of a dependent student have an annual income of less than $24,000, whereby the EFC is automatically zero.[80] It should be noted that even if an EFC is automatically zero, this does not mean that a student will receive grants that cover all of the student's postsecondary education expenses, but simply that the student will receive a financial aid package of loans, grants, and work study to attend a college if the student is admitted.[81]

the students in greatest need. The Pell program's burdensome eligibility and application process urgently needs reform . . . . In [a study,] low-income families who visited a tax-preparation center . . . received both personalized information about eligibility for financial aid and personal assistance with completing the FAFSA . . . . The full treatment cost less than $100 per participant[and] increased immediate college entry rates" by twenty-four percent, compared with those who received only a brochure.); *see also* COLL. BD. ADVOCACY & POL'Y CTR., RETHINKING PELL GRANTS 13 (2013) ("While [complexity of] the application process is likely the biggest hurdle for students, the complexity of the formula for determining Pell eligibility is also an issue. Because so many data elements enter into the formula and because it involves so many opaque calculations, it is *virtually impossible* for students and families to predict the level of funding they will receive.") (emphasis added).

77 Ryan, *supra* note 51, at 19.

78 20 U.S.C. § 1087(b)–(c) (2017); FED. STUDENT AID, FED. STUDENT AID HANDBOOK 2016–2017, AVG-37–38 (2016), https://ifap.ed.gov/fsahandbook/attachments/1617FSAHbkActiveIndexMaster.pdf.

79 20 U.S.C. § 1087(b)–(c) (2017); FED. STUDENT AID, *supra* note 78, at AVG-37–38.

80 FED. STUDENT AID, *supra* note 78, at AVG-36; *see also* OFFICE OF THE ASSISTANT SEC'Y FOR PLANNING AND EVALUATION, *2015 Poverty Guidelines* (Sept. 3, 2015), https://aspe.hhs.gov/2015-poverty-guidelines#threshholds (stating that $24,000 correlates with the national poverty threshold of $24,250 annual gross income for a family of four).

81 *See generally* FED. STUDENT AID, *supra* note 78 (noting that types of financial aid include loans and grants as well as work-study grants).

III. PROPOSAL TO REFORM THE PELL GRANT MODEL

A. Specific Changes and Impacts of the Proposal

This Note argues that to lower the amount of debt currently faced by students and graduates at large, increase awareness of federal financial aid programs, and cast a wider net to reach additional students, especially students from low-income families, then financial aid procedures must be altered in three ways: (1) the threshold annual gross income for independent students and parents of dependent students should be raised to $100,000 as long as total assets reported do not exceed $385,000; (2) the threshold annual income amount for automatic zero EFC in the second exception should be raised to $40,000; and (3) the Pell Grant maximum award amount should be raised to $9,650, subject to the cost of attendance per school (i.e., no student should be able to attain grants in an amount higher than the cost of tuition and fees).[82] If the proportionality of allocation for Pell Grant amounts remains the same, the amount of the Pell Grant would shift accordingly, relative to the COA and EFC.[83] These changes should be accompanied by greater counseling for prospective and entering college students to ensure students are fully aware of the best financial aid options available based on students' individual circumstances.[84] Such changes would also spark a larger

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82 *See* 20 U.S.C. § 1087(b)–(c) (2017) (stating that the automatic zero EFC threshold is currently set at $24,000); *see also* FED. STUDENT AID, *supra* note 78, at 36 (stating that the current threshold is $50,000 for annual gross income, and does not include the proffered condition). The $385,000 total assets number is based on adding together the average cost of a new car ($33,560), the average cost of a new home (approximately $349,000), and $1,000 (the amount of savings sixty-two percent of Americans have in their savings accounts though twenty-one percent do not even have a savings account). *Compare* James R. Healey, *Average New Car Price Zips 2.6% to $33,560*, USA TODAY (May 4, 2015), http://www.usatoday.com/story/money/cars/2015/05/04/new-car-transaction-price-3-kbb-kelley-blue-book/26690191, *and Median and Average Sales Prices of New Homes Sold in United States*, U.S. CENSUS BUREAU, 13 (2016), https://www.census.gov/construction/nrs/pdf/uspricemon.pdf, *with* Quentin Fottrell, *Most Americans Have Less than $1000 in Savings*, MARKETWATCH (Dec. 23, 2015), http://www.marketwatch.com/story/most-americans-have-less-than-1000-in-savings-2015-10-06. Adding these three numbers does not include additional business assets and other previously attained assets. *See* Healey, *supra* note 82; *see also* Fottrell, *supra* note 82. The $9,650 number is selected because it represents *the average cost of tuition and fees for state residents attending public college in 2016–2017* ($9,650 does not include room and board, books, supplies, transportation, or personal and miscellaneous fees, which cost approximately $15,000 per year). *What's the Price Tag for a College Education*, COLL. DATA http://www.collegedata.com/cs/content/content_payarticle_tmpl.jhtml?articleId=10064 (last accessed Mar. 14, 2017).

83 INFO. FOR FIN. AID PROF'LS, *Fed. Pell Grant Program*: *Payment Schedule for Determining Full-Time Scheduled Awards for the 2015-2016 Award Year* 1-2 (2015), https://ifap.ed.gov/dpcletters/attachments/GEN1502Attach.pdf.

84 *See* Baum & Scott-Clayton, *supra* note 76, at 10–11; s*ee also* Empowering Students

discussion about the Federal Pell Grant as an option for financial aid through increased word of mouth awareness.[85] These new changes would alleviate debt aversion, alter lifetime wages for a large number of students from low-income backgrounds by enhancing awareness of educational funding, and increase tax revenues by taxing, at higher rates, graduates who normally would not have enrolled in college.

In advocating for an alteration of the current Pell Grant formulas, this Note stresses that the Federal Pell Grant means-testing formula has not been reformed in twenty-five years.[86] This Note also posits that increased wages of individuals who can afford to attend college will increase future tax revenues by sending more low-income students to college, therefore cutting spending and likely increasing tax rates for a time.[87] After a certain point, a program that encourages higher wages across the United States begins to pay for itself by increasing productivity, wages, and tax revenues.[88] Until that point, funding through taxes is necessary to enhance educational opportunities.

Through Enhanced Financial Counseling Act, H.R. 3179, 114th Cong. § 2 (2015) (The Bill enhances awareness of financial aid for students via enhanced counseling and will accompany a proposal to enhance accessibility to financial aid, particularly for students from lower-income families.).

[85] *See* Sara Godrick-Rab, *Promoting Academic Momentum at Community Colleges: Challenges and Opportunities* 9 (Cmty. Coll. Research Ctr., Working Paper No. 5, 2007). Low-income parents of high school students who report having no information about the costs of attending college overestimate the actual cost by 228%. *Id*. Such inaccuracies regarding college cost likely discourage students of low-income families from attending college. *Id*. Furthermore, such students from low-income families often rely solely on guidance counselors to learn about college costs because most people in the students' inner circle have not attended college. *Id*. In addition to relying on guidance counselors, peer counseling can be a great resource in helping students understand and access financial aid for college. William G. Tierney & Kristan M. Venegas, *Fictive Kin & Social Capital: The Role of Peer Groups in Applying and Paying for College*, 49 AM. BEHAVIORAL SCIENTIST 1687, 1693, 1698, & 1700 (2006). Peers who learn state and federal financial aid requirements can counsel their peers, "reinforce" knowledge provided on a daily basis, and provide at least a "mild antidote to [the] severe problem" of lack of knowledge about financial aid. *Id*. at 1693, 1698, & 1700.

[86] *Compare* Higher Education Amendments of 1992, Pub. L. No. 102-325, § 401(f), 106 Stat. 448 (1992), *with* Higher Education Opportunity Act, Pub. L. No. 110-315, § 401(f), 122 Stat. 3078 (2008) (The EFC formula is the same in both the 1992 amendments (when the formula changed) and the Higher Education Opportunity Act of 2008 (the last effective alteration of the Higher Education Act).).

[87] Kyle Pomerlau, *2016 Tax Brackets*, TAX FOUND. (Oct. 14, 2015), http://taxfoundation.org/article/2016-tax-brackets (The current tax rates increase proportionately from ten percent, for those making up to $9,270 (single) or $18,550 (married), up to 39.6% for those making $415,050+ (single) or $466,950+ (married)—more income leads to more tax revenue generated.); *see also* Michael Simkovic, *The Knowledge Tax*, 82 U. CHI. L. REV. 1981, 1996 (2015) (stating that tax revenue is an assumed externality of education).

[88] *See* Simkovic, *supra* note 87.

Ensuring that the Pell Grant is a less stigmatized, viable form of paying for college and increasing the number of students who can apply to and access the Pell Grant for educational costs will encourage students from lower-income families to believe that they, too, can afford college.[89] A decrease in the net cost of college attendance by $1,000 via grant aid has been shown to increase the probability of college enrollment by 3.6%.[90] The statistic suggests that students, regardless of their or their families' tax brackets, react positively to a net decrease in cost of college attendance.[91] Thus, it is important to increase the amount of students reached by grants to ensure that college is more accessible for every student.

B. Student Debt

The student debt for the United States stands at over $1.2 trillion in outstanding loans.[92] Furthermore, little has been done to provide grants and greater access to higher education for most impoverished students.[93] As Pell Grants accounted for less of students' overall cost of college attendance from 1970s to the 2000s, the gap of college attendance between the most impoverished and middle-class students has increased.[94] It may be helpful to reform loans to address student debt.[95] One model for achieving this is a Risk-Based Student Loan Model, which encourages choosing majors in college that increase salary potential upon entering the workforce and, thus, allows those students to be more likely to pay back loans.[96] A Risk-Based Student Loan Model may incentivize students to refrain "from borrowing heavily to attend expensive education programs of dubious value, while encouraging the most promising students to borrow what they need to complete valuable degrees."[97] One exception to this concerns those students who choose to pursue a liberal arts education and seek to attend graduate school in the future to increase their earning potential and ability to pay back loans.[98] It is indisputably important to enhance student decision-making about colleges and majors. It is of additional importance, however, to address accessibility of college

[89] *See* Ryan, *supra* note 51, at 12 (stating increases in the cost of education over time decrease the amount of lower-income students who enroll in college).

[90] Ryan, *supra* note 51, at 12.

[91] *See* Ryan, *supra* note 51, at 12.

[92] Denhart, *supra* note 47.

[93] *See* Smith, *supra* note 1, at 199–201.

[94] *See* Smith, *supra* note 1, at 201.

[95] *See generally* Simkovic, *supra* note 54, at 590.

[96] *See generally* Simkovic, *supra* note 54.

[97] Simkovic, *supra* note 54, at 590.

[98] Simkovic, *supra* note 54, at 582–83.

to students before they enter college, with greater focus on students in the lowest income tax brackets.[99] Students who believe they cannot afford to take on substantial student loans are less incentivized to attend college in the first place.[100] Therefore, lenders and educators must not only decrease the amount of student loans required to attend college, but they must also connect students who qualify for financial aid with measures of greater affordability to further their enrollment.

An alternative solution to reforming student loans is to increase the number of students who receive Federal Pell Grants by modifying the means-test formula to increase the number of students eligible for the Pell Grant. One study showed that increasing the amount of Pell Grants by one dollar decreases the amount of student loan borrowing by $1.80.[101] Though reforming student loans could help to reduce the total outstanding amount, the current amount of student debt is too big for student loans to take on alone.[102] The 2015 average student debt per person climbed to about $35,000.[103] If debt per person continues to climb at the same rate—approximately $5,000 every two years—average student debt could be in excess of $60,000 per student in ten years.[104] This statistic should be alarming. Current tax credits might offset some of the debt but not by enough.[105] Furthermore, students and families are probably confused

[99] *See generally* Smith, *supra* note 1.

[100] *See* Godrick-Rab, *supra* note 85, at 9 (stating that parents are likely to overestimate the cost of attendance by over 200% if they have not received adequate information about college and COA—this likely leads to a negative correlation with student incentives to attend college).

[101] Marx & Turner, *supra* note 57, at 2.

[102] *See generally* Simkovic, *supra* note 54 (discussing that overall student debt can be reduced by implementing a risk-based student loan model contingent on students choosing majors that will increase their career profitability or increase their student loan burden if they do not choose a college major that is more likely to enhance their career profitability).

[103] Sparshott, *supra* note 21.

[104] *See* Sparshott, *supra* note 21.

[105] *See, e.g.*, *American Opportunity Tax Credit*, IRS, https://www.irs.gov/individuals/aotc (last accessed Mar. 13, 2017). Currently, the maximum annual American Opportunity Tax Credit ("AOTC") an eligible student can receive for the first four years of higher education is $2,500. *Id.* The maximum Lifetime Learning Credit ("LLC") a student can receive is $2,000 per year, but there is no limit on the number of years the credit can be claimed. *Lifetime Learning Credit*, IRS, https://www.irs.gov/publications/p970/ch03.html (last accessed Mar. 13, 2017). Only one tax credit can be claimed per year, meaning that if eligible for the AOTC, the most that can be offset by tax credits per year is $2,500. *See American Opportunity Tax Credit*, *supra* note 105; *see also Education Benefits – No Double Benefits Allowed*, IRS, https://www.irs.gov/individuals/education-benefits-no-double-benefits-allowed (last accessed Mar. 13, 2017). Even after applying available tax credits, the average student debt is currently a little more than $35,000. *See* Sparshott, *supra* note 21. Assuming a worst-case scenario that all student families with student loans are not currently taking any available tax credits and a best-case scenario that all students with debt are eligible for the maximum AOTC of $2,500, taking the tax credit would only reduce the

about whether to take a tax credit.[106] The Pell Grant, then, seems to be an underutilized method to further offset the student debt. Moreover, the Pell Grant formula has not been updated since 1992. As a result, the grant is likely no longer serving the same purpose it served twenty-five years ago.[107] Accordingly, the means-testing formula should be updated to better serve current educational funding requirements in order to revive the original purpose of the means-testing formula for federal financial aid. This would help solve debt per student and debt aversion, reach more students, and target more economically disadvantaged students.[108]

C. Reforming Student Debt through Subsidized Student Loans

In August 2015, former Secretary of State Hillary Rodham Clinton proposed a potential reform plan to alleviate the current student debt problem.[109] In part, the plan seeks to increase the federally subsidized student loan cap and provide students with lower interest rates for federal student loans.[110] The reform also "encourage[s]" states to offer no-loan options for attending colleges funded by federal tax dollars.[111] If the average student debt could be $60,000 per student graduating in 2025, adjusting the subsidized loan cap and lowering interest rates would decrease the amount repaid over time but would not change the level of debt per student upon graduation. With such reform, the average student debt could still be $60,000 per student graduating in 2025.[112] Additionally, for every dollar the federal government raises the cap on subsidized loans, there is a seventy percent increase per dollar in tuition.[113] Critics of the plan additionally allege that increasing student loans with federal tax dollars will simply shift the tax burden to a business—a student's future employer—which may further increase

current average student debt to $32,500. *See* Sparshott, *supra* note 21; *see also American Opportunity Tax Credit*, *supra* note 105.

106 Stegmaier, *supra* note 68, at 152–53.

107 Higher Education Amendments of 1992, Pub. L. No. 102-325, §§ 474-77, 106 Stat. 448, 587-94 (1992); *see also* Smith, *supra* note 1, at 201.

108 Flattau et al., *supra* note 25, at II-5 (explaining that the original purpose of the NDSL, which later became the Higher Education Act of 1965, was to ensure that education could be attained by all seeking it).

109 Patrick Hedger, *Hillary's Student-Loan Plan Is a Desperate Gimmick for the Millennial Vote*, NAT'L REV. (Aug. 17, 2015), http://www.nationalreview.com/article/422606/hillary-clinton-student-loan-plan.

110 *Id*.

111 *Id*.

112 *See supra* Part III.B; *see also* Sparshott, *supra* note 21.

113 DAVID O. LUCCA ET AL., FED. RESERVE BANK OF N.Y., CREDIT SUPPLY AND THE RISE IN COLLEGE TUITION: EVIDENCE FROM THE EXPANSION IN FEDERAL STUDENT AID PROGRAMS 3 (2015), https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr733.pdf (revised 2017).

unemployment and thereby create a crisis of its own.[114] It is also important to note that for every dollar increase of the unsubsidized student loan amount, student tuition increases by thirty cents.[115] For every dollar increase in Pell Grants awarded, the correlating tuition increase is fifty-five cents.[116] Considering that the nation is currently trillions of dollars of debt, Secretary Clinton's plan to increase the unsubsidized student loan amount is plausible because tuition does not rise as much.[117] However, as this Note vehemently argues, increasing the unsubsidized student loan amount to cover the costs of attendance continues to feed student debt, rather than most effectively minimizing it.[118] As student debt increases rapidly year by year, reforming the Pell Grant awards would not only cost less overall, but would add less to the student debt crisis than would increasing the unsubsidized or subsidized debt.[119]

D. Reform of Tax Credits

Another option to reform funding the cost of education for families and students paying for higher education is to replace the multiple tax credit system with a single credit system.[120] Though the proposal does not include revenue in its analysis, it argues that current tax credits do not reach the taxpayers they seek.[121] Furthermore, a single system would allow more families to take advantage of tax rebates, thereby decreasing university cost of attendance for all families.[122] It would also be available in advance, unlike current tax credits that do not provide students or

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[114] *See* Hedger, *supra* note 109.

[115] LUCCA ET AL., *supra* note 113, at 3.

[116] LUCCA ET AL., *supra* note 113, at 3.

[117] Stephen Dinan, *Federal Debt Hits $19 Trillion; New Record Set,* WASH. TIMES (Feb. 1, 2016), http://www.washingtontimes.com/news/2016/feb/1/federal-debt-hits-19-trillion-new-record-set/ (reporting the current U.S. debt at $19 trillion).

[118] *See* Marx & Turner, *supra* note 57, at 2. Increasing Pell Grants by one dollar decreases student loan borrowing by $1.80, and for every dollar increase of Pell Grant awarded, tuition rises by fifty-five cents. Marx & Turner, *supra* note 57, at 2. *See also* LUCCA ET AL., *supra* note 113, at 3. Combining these two values nets a total decrease in student loans of twenty-five cents per dollar. *See* LUCCA ET AL., *supra* note 113, at 3; *see also* Marx & Turner, *supra* note 57, at 2.

[119] *See* Marx & Turner, *supra* note 57, at 2; *see also* LUCCA ET AL., *supra* note 113, at 3. The net total decrease in student loans is twenty-five cents per dollar when Pell Grant amounts increase by one dollar (tuition increases by fifty-five cents, but student loan borrowing decreases by $1.80). *See* Marx & Turner, *supra* note 57, at 2; *see also* LUCCA ET AL., *supra* note 113, at 3.

[120] Stegmaier, *supra* note 68, at 153.

[121] Stegmaier, *supra* note 68, at 153.

[122] Stegmaier, *supra* note 68, at 162–68.

families with funds until a year or more after tuition and fees are due.[123]

While certain tax reforms may alleviate some of the expense burdens on families in lower and middle income tax brackets, additional tax credits and reforms to tax credit systems do not alleviate the current student loan crisis.[124] Tax credits for education stop when enrollment stops.[125] Additionally, since 1997, tax credits have been applied to student and family income taxes, yet the debt crisis continues to grow.[126] Reducing the debt crisis debt amounts would also require increasing tax credit dollar amounts.[127] Moreover, in 2004, students and families in the lowest income brackets only received eleven percent of the tax related savings as compared to forty-one percent of tax related savings for those in the $100,000 to $160,000 annual income bracket.[128] This data suggests that though tax credits work to alleviate some costs of education, further reform and outreach is necessary to reach students of families from lower income brackets and additional methods of financial aid are also needed to reach all students.

E. Greater Advertising Leads to Awareness

One of the most important features of raising the income threshold to $100,000 for claiming a simplified formula exception, changing the automatic zero EFC provision, and increasing the maximum Pell Grant amount is providing greater awareness of the program to low-income students. This feature is important due to the disproportionate number of whites compared to minorities in poverty as well as the disproportionate numbers of whites and minorities receiving degrees. In 2012, poverty

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[123] Stegmaier, *supra* note 68, at 162-68.

[124] *See* Sparshott, *supra* note 21. Even with the availability of tax credits, for the average graduating student with $35,000 of student debt, a previously untaken tax credit of $2,500 per year ($10,000 over four years of college) would certainly help, but would decrease average student debt to $25,000, which is still very high. *See* Sparshott, *supra* note 21; *see also* Ryan, *supra* note 51, at 9.

[125] *See American Opportunity Tax Credit*, *supra* note 105 (To be eligible for AOTC, a student must "[b]e enrolled at least half time for at least one academic period beginning in the tax year." The AOTC is available to eligible students for the first four years of higher education to reimburse qualified education expenses.); *see also Lifetime Learning Credit*, *supra* note 105 (stating that the LLC is available to reimburse qualified education expenses paid for eligible students).

[126] *See* Ryan, *supra* note 51, at 9.

[127] *See American Opportunity Tax Credit*, *supra* note 105; *see also Lifetime Learning Credit*, *supra* note 105. Even if a maximum AOTC of $2,500 were applied to the current average student debt of approximately $35,000 (assuming the worst-case scenario situation where no student with debt took the available AOTC though all were eligible), the average student debt would still be $32,500. *See* Sparshott, *supra* note 21; *see also American Opportunity Tax Credit*, *supra* note 105.

[128] Ryan, *supra* note 51, at 32.

rates among minorities in the United States were higher than for their white counterparts.[129] For instance, in 2012, whites constituted 9.7% of those impoverished in the United States, whereas African-Americans and Hispanics combined constituted fifty-three percent of the impoverished in the United States.[130] This discrepancy is relevant because the percentage of whites graduating from college is higher than the percentage of minorities graduating from college, and the issue must be addressed.[131] Whites attained 72.9% of the total bachelor's degrees in the United States, whereas African-Americans and Hispanics attained approximately nineteen percent.[132] Considering that African-Americans and Hispanics make up approximately thirty percent of the United States population and whites make up sixty-two percent, the inequalities in percentages of minorities attaining bachelor's degrees when compared to their white counterparts is notable.[133] In view of the percentage of each race in poverty, the government must make an effort to open education to low-income minority students.

By enhancing awareness of financial aid for minority populations through greater advertising, this Note posits that word of mouth awareness will be particularly effective. For instance, especially inherent in the identities of many African-Americans is a sense of oral tradition.[134] Odeana Neal, an African-American legal scholar and graduate of Harvard College and Harvard Law, though a high achiever in "visualist" American culture—that which places much focus on the visual, written word—has discussed how she "cannot believe in the privilege of the written word . . . for what would that say about the relative importance of things" held deepest in her heart, things "taught to [her] by unlettered men and women . . . or giggled about on the phone with a friend?"[135]

[129] *See Who Is Poor*?, INST. FOR RESEARCH ON POVERTY, http://www.irp.wisc.edu/faqs/faq3.htm (last accessed Mar. 13, 2017).

[130] *Id.* (The fifty-three percent, who are impoverished African-Americans and Hispanics, does not include "whites" who are not "Non-Hispanic Whites" that constitute 12.7% of those impoverished in the U.S. Therefore, the number of impoverished African-Americans and Hispanics in 2012 could be as high as sixty-five percent.).

[131] *Degrees Conferred by Sex and Race*, NAT'L CTR. FOR EDUC. STATISTICS, https://nces.ed.gov/fastfacts/display.asp?id=72 (last accessed Mar. 14, 2017).

[132] *Id*.

[133] *Quick Facts: United States*, U.S. CENSUS BUREAU, https://www.census.gov/quickfacts/table/PST045216/00 (last accessed Apr. 12, 2017) (The thirty percent of African-Americans and Hispanics does not include whites who may be of Hispanic or Latino origin, which could mean that African-Americans and Hispanics constitute forty-five percent of the U.S. population.).

[134] Bernard J. Hibbitts, *Making Sense of Metaphors: Visuality, Aurality, and the Reconfiguration of American Legal Discourse*, 16 CARDOZO L. REV. 229, 279 (1994).

[135] *Id.* at 331 (citing Odeana R. Neal, *The Making of a Law Teacher*, 6 BERKELEY WOMEN'S L.J. 128, 132 (1990)).

Something similar can be said about Hispanic law professors who may "come from traditions in which individuals have been markedly empowered by speech and disempowered by silence," where the "spoken word itself has carried greater weight" than in "visualist" American culture.[136] It is one thing to see something written on paper, but it is something completely different to hear it by word of mouth from a friend.

The concept of oral tradition can apply equally to advertising for Pell Grants and increasing awareness of federal financial aid for minority students from low-income backgrounds. To reach students from low-income families who may be Hispanic or African-American, one way to enhance awareness is to get people talking.[137] People would certainly talk about the increased Pell Grant amount of $9,650.[138] Such awareness could help close the bachelor's degree gap between whites and minorities, which would decrease levels of poverty among minorities. Such talk would create greater awareness about financial aid options for low-income students and alleviate issues regarding what one scholar calls the "Elusive Cap and Gown," or the lack of access to education resources that some minority students face when seeking to finance higher education.[139]

IV. ADDRESSING POTENTIAL CRITICISMS OF A PLAN TO INCREASE PELL GRANT ACCESSIBILITY

Counterarguments to increasing accessibility of Pell Grants by raising the income levels of requirements for the simplified version of the means-testing formula are that taxes and tuition would increase, and the program might not reach students from lower-income families as much as it should. This Note will address each of those counterpoints in turn. Though it is possible that some of these concerns are justified, there is a vast disparity between the nation's wealthiest and poorest, which leads to serious consequences in U.S. economic growth. Joseph Stiglitz discusses the impact of income disparities best:

> Inequality leads to lower growth and less efficiency. Lack of opportunity means that [the] most valuable asset—[the] people—is not being fully used. Many at the bottom, or even in the middle, are not living up to their potential, because the rich, needing few public services and worried that a strong

136 *Id.* at 332.

137 *See generally* Tierney & Venegas, *supra* note 85, at 1687 (stating that peers can serve as financial aid counselors).

138 *See* Godrick-Rab, *supra* note 85, at 8–9 (noting that wealthier students rely mostly on people around them to enhance their awareness of college and financial aid, while lower-income students rely primarily on guidance counselors).

139 *See* Smith, *supra* note 1, at 181, 183 ("Higher education has been elusive for people of African descent throughout the greater part of United States history.").

> government might redistribute income, use their political influence to cut taxes and curtail government spending. This leads to underinvestment in infrastructure, education and technology, impeding the engines of growth.[140]

Economic disparities derive from issues in higher education, and issues in education further derive from the inability to pay for higher education.[141]

A. The Concern of Increasing Taxes and Tuition

Rather than discussing how taxes would increase if grants increase, if more people receive grants, and if the federal government further subsidizes education, this Note emphasizes that tax revenues would increase as income levels rise.[142] The United States taxes wages more than any other form of income capital.[143] Public expenditures to increase workers' wages provide higher future tax revenues than public expenditures to increase private capital.[144] It was previously noted that a college degree increases lifetime earnings of a worker by forty percent.[145] Furthermore, increasing the Pell Grant by even a trivial amount encourages more students of low-income backgrounds to attend college.[146] Investing in the Pell Grant and lifetime earnings of low-income students by sending more of them to college increases the tax brackets of those students, which increases taxes paid in the long run.[147] Such investment increases the vitality of the United States economy, as well as the overall education level and lifetime earnings of individuals from low-income families, thus providing enhanced benefits for all.

Furthermore, the government can make finding a way to fund education a top priority without increasing taxes. President George W. Bush cut federal government spending by $18 billion to fund the College Cost Reduction and Access Act Debt, which used part of the spending for

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140 Joseph E. Stiglitz, *The High Price of Inequality*, GUARDIAN (June 5, 2012), http://www.theguardian.com/business/2012/jun/05/price-of-inequality-united-states (emphasis added).

141 *See generally* Simkovic, *supra* note 54, at 601 (stating that increases in education levels increase the overall lifetime earnings of workers).

142 Simkovic, *supra* note 54, at 547.

143 Simkovic, *supra* note 54, at 547.

144 Simkovic, *supra* note 54, at 547.

145 Simkovic, *supra* note 54, at 539.

146 Travis L. Packer, Note & Comment, *College Cost Reduction and Access Act: A Good Step, but Only a Step*, 12 N.C. BANKING INST. 221, 227 (2008).

147 *See* Simkovic, *supra* note 54, at 539. Income is increased per additional year of post-secondary education received. Simkovic, *supra* note 54, at 539. Tax revenues are generated at greater rates with greater levels of education. Simkovic, *supra* note 87, at 1996. This suggests that both the economy and individuals are better off when individuals attain higher levels of education. *See* Simkovic, *supra* note 87*; see also* Simkovic, *supra* note 54, at 539.

Pell Grants.[148] President Bill Clinton signed the Taxpayer Relief Act of 1997 ("TRA"), which provided for the Hope Scholarship and Lifetime Learning Credits and was expected to cost taxpayers $31.6 billion.[149] Funding education is critical, and though it might cost additional money, Pell Grants could be funded through cutting the federal budget, spending, or by raising taxes. In essence, this Note's new Pell Grant proposal would pay for itself over time in overall economic growth and tax revenues.[150] Debt aversion and defaulting student loans, which are currently at forty percent, could be effectively curtailed, leading to greater productivity and innovativeness.[151]

B. The Concern that this Proposal Will Not Reach the Low-Income Students it Seeks

The Pell Grant program, though available to lower-income students, is not well known to many of those students or their families.[152] The Higher Education Authorization Act of 2015 seeks to better inform students about their financial aid options.[153] However, the Bill seeks to better inform students about their financial aid options only *after they are admitted* to school.[154] It does little to improve information channels for students prior to applying to schools.[155] There could be a valid concern that this Note's re-envisioned and enhanced Pell Grant formula and maximum amount would not reach the students it seeks to reach simply

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148 Packer, *supra* note 146, at 227.

149 Ryan, *supra* note 51, at 8–9.

150 *See* Simkovic, *supra* note 87, at 1996, 1988 (Tax revenue is an assumed externality of education. Furthermore, "investments in education increase the rate of economic growth, likely by improving productivity and accelerating the pace of innovation.").

151 *See* Cloud & Fossey, *supra* note 23, at 468–69; *see also* Simkovic, *supra* note 87, at 1988 ("Other recent studies with higher-quality data generally find a causal link between education and growth. The level of education that is most relevant to growth seems to depend on the current level of development and technology. Primary and secondary education appear to be more important for developing economies that are further from the technological frontier, while investment in postsecondary education appears to be a more important driver of growth for high-income, advanced economies such as those of the United States and Western Europe. Returns to higher education are typically high and positive.").

152 *See* Baum & Scott-Clayton, *supra* at note 76, at 10–11 (stating that the complexity of the FAFSA and formula for the Pell Grant render financial aid often inaccessible to students); *see generally* Empowering Students Through Enhanced Financial Counseling Act, H.R. 3179, 114th Cong. § 2 (2015) (The counseling process should be amended to be simpler and be done in a more understandable manner, which further suggests that the process is not very simple or clear now. Furthermore, the Pell Grant amounts, procedures, and terms should be explained to students during financial counseling.).

153 Empowering Students Through Enhanced Financial Counseling Act, H.R. 3179, 114th Cong. § 2 (2015).

154 *See id*.

155 *See generally id*.

because the current Pell Grant model is ineffective at reaching the students it seeks.[156] Nonetheless, if more students received increased Pell Grant awards, word would travel fast.[157] Debt-averse students would be better informed by word of mouth prior to applying to college so that they could sooner decide whether they could afford their education.[158] The Higher Education Opportunity Act of 2008 authorized the creation of a Net Price Calculator to determine how much financial aid students would be entitled to receive based on family income status.[159] The College Board currently has many calculators to estimate the cost of attendance, EFC, and other financial aid-related requests.[160] Even though these available devices to calculate the cost of college do not necessarily make waves in reaching students, they would likely be more well-known and effectively used if this Note's new Pell Grant proposal were implemented because people would talk *and* want to learn more about education costs.[161]

V. CONCLUSION

As Professor Paula A. Franzese of Seton Hall University School of Law so aptly exclaims to first year law students in her Property class, the "promise of inclusion works!"[162] Not only does it work in Property, but inclusion works in financial aid as well. Including students from low-income backgrounds in the financial aid process earlier, in greater abundance, and in a way that acknowledges debt aversion can dramatically improve the college matriculation rates of lower-income students. Loans and tax credits cannot fully incentivize low-income students to attend college if the Pell Grant is not doing its part, and the

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[156] *See* Baum & Scott-Clayton, *supra* at note 76, at 10–11 (discussing the complexity of financial aid and its failure to reach students and the complexity of the Pell application process, which poses barriers to participation in the grant program).

[157] *See* Godrick-Rab, *supra* note 85, at 9 (Though most in the inner circle of wealthier students have attended college, most in the inner circle of lower-income students have not. Low-income students rely primarily on guidance counselors for information about college, and wealthier students rely on nearly everyone. Nonetheless, peer counselors *can* be a great resource.); *see also* Tierney & Venegas, *supra* note 85, at 1692 ("[W]ell-informed and concerned peers are able to guide and influence behaviors of their similar-aged cohort . . . .").

[158] *See generally* Tierney & Venegas, *supra* note 85 (discussing the importance of creating a "Fictive Kin" grouping of future college students connected by enhanced knowledge of financial aid).

[159] 20 U.S.C. § 1015a(h)(1)–(3) (2008).

[160] *Tools & Calculators*, THE COLL. BD., https://bigfuture.collegeboard.org/pay-for-college/tools-calculators (last accessed Mar. 14, 2017).

[161] *Id*.

[162] *See generally* Paula A. Franzese, *Mount Laurel III: The New Jersey Supreme Court's Judicious Retreat*, 18 SETON HALL L. REV. 30 (1988) (discussing the power of inclusionary policies).

Pell Grant formula for assessing need cannot continue to remain unchanged since 1992. To avoid altering the ways our students receive financial aid would be a tremendous disservice to students, educators, and parents that fails to appreciate the diverse needs of today's youth. We owe it to our future to enhance the Pell Grant system.