3-2018

Unintended Consequences In Higher Education Finance Policy: Implications For Current Income-Share Agreement Legislative Efforts And Beyond

Patrick A. Zancolli
University of Pennsylvania, zancolli@sas.upenn.edu

Follow this and additional works at: https://repository.upenn.edu/curej

Part of the American Politics Commons

Recommended Citation

This paper is posted at ScholarlyCommons. https://repository.upenn.edu/curej/217
For more information, please contact repository@pobox.upenn.edu.
Abstract
Although the creation of a federal financial aid system in the United States has greatly expanded opportunity for students seeking postsecondary education, the higher education financing system faces a handful of problems in its current state. At the same time that the higher education financing system is facing these issues, an alternative to traditional student loans known as income-share agreements (ISAs) is gaining attention. There is currently a lack of federal legislation that provides a national framework for ISA providers and students to work within. Policymakers are considering this situation and attempting to address it in a way that properly balances the interests of both ISA student and lenders, but past policy in this arena has had a tendency to cause effects that were not intended. This study seeks to understand if there is a way that policy can be examined that allows for the identification of certain types of policy that result in unintended consequences before the effects go into place. In order to do this, I examine ten higher education financing policy cases over the past sixty years in an effort to establish a theory of policy that causes unintended consequences. I then test this theory using three interviews with higher education experts relevant to the ISA space in an attempt to see if this theory can be applied to additional cases, such as proposed ISA policy. I find that, although it is difficult to establish a theory that predicts if a policy will cause unanticipated results with certain, the findings from my case studies and interviews can serve as a set of lessons of what has worked well and failed in higher education financing policy. As applied to proposed ISA policy, I conclude that policy entrepreneurs in this space will face difficulty in adopting lessons from past policies due to the challenges to policy learning they face in the current legislative climate.

Keywords
political science, policy, Congress, education, higher education, finance, loans, unintended consequences, legislation, income-share agreement, ISA, Social Sciences, Political Science, Deirdre Martinez, Martinez, Deirdre

Disciplines
American Politics

This article is available at ScholarlyCommons: https://repository.upenn.edu/curej/217
Unintended Consequences in Higher Education Finance Policy: Implications for Current Income-Share Agreement Legislative Efforts and Beyond

By

Patrick Zancolli

Advisor: Dr. Deirdre Martinez

Senior Honors Thesis in Political Science
University of Pennsylvania
Spring 2018
Acknowledgements

Penn and the Department of Political Science – I never would have imagined four years ago that I would come to an environment where I was equipped with the opportunity and resources to conduct such a meaningful project.

Dr. Martinez, there is no way I would be where I am today without you. Two years ago, you accepted me to Penn in Washington, and little did I know the direction that this path would take me. Thank you for helping me to develop an initial interest in education policy that would grow into the motivating factor that drove me to complete this project. I have been very lucky to work with you so closely during my time at Penn, and I look forward to continuing to develop our relationship as an alum in D.C.

To those who have played a significant role in the progression of my research – Sylvie Spewak, the Penn Wharton Public Policy Initiative, Paytronage, my peers both within and outside of the Political Science Department, and those who agreed to speak with me as part of my interview study. I really have appreciated your support and guidance along the way.

Finally, I want to thank my family for all the love and support they have provided me with over the past four years. Mom, you taught me everything that you could have during your time on this Earth to set me up for success. I miss you each and every day, but I know that you are watching. Dad, Aunt Dee Dee, Aunt Mary Lou, I cannot express how grateful I am for everything you have done to help me through my undergraduate career. I hope that I have made you proud.
Table of Contents

Abstract.................................................................................................................................................. 5

I. Introduction ........................................................................................................................................ 6
   A. Problems in higher education financing ..................................................................................... 6
   B. Proposed solutions come up short ................................................................................................. 8
   C. Growth of the income-share agreement space ............................................................................. 10
   D. The role of unintended consequences in policymaking ............................................................... 11

II. What is an Income-Share Agreement? ............................................................................................ 14

III. Blending Concept with Theory...................................................................................................... 18
   A. Four Approaches to the ISA Landscape ....................................................................................... 18
      i. ISAs as an Alternative Finance Tool ......................................................................................... 19
      ii. Economic Perspectives on ISAs ............................................................................................. 22
      iii. Legal/Regulatory Perspectives on ISAs ................................................................................. 24
      iv. Understanding Public Perception of ISAs ............................................................................... 26
   B. Tracing the Theory of Unintended Consequences ....................................................................... 29

IV. Methodology: A Qualitative Two-Step Analysis .......................................................................... 33
   A. Research Questions ........................................................................................................................ 33
   B. Model & Hypotheses ..................................................................................................................... 34
   C. Research Design ........................................................................................................................... 36
V. Findings .................................................................................................................. 38

A. Case Studies ............................................................................................................ 38

i. National Defense Education Act (NDEA) (1958) ..................................................... 38

ii. Higher Education Act (HEA) (1965) .................................................................... 39

iii. Higher Education Amendments of 1972 ................................................................. 40

iv. Middle Income Student Assistance Act (MISAA) (1978) ....................................... 41

v. Higher Education Amendments of 1980 ................................................................. 42

vi. Higher Education Amendments of 1986 ................................................................. 43

vii. Higher Education Amendments of 1992 ............................................................... 43

viii. Student Loan Reform Act (1993) ......................................................................... 45


x. Health Care and Education Reconciliation Act (HCERA) (2010) ....................... 46

xi. Analysis .................................................................................................................. 47

B. Interviews with Higher Education Experts ......................................................... 54

Framework .................................................................................................................. 54

Findings & Analysis .................................................................................................... 56

VI. Conclusion ............................................................................................................ 62

VII. Bibliography ....................................................................................................... 67
Abstract

Although the creation of a federal financial aid system in the United States has greatly expanded opportunity for students seeking postsecondary education, the higher education financing system faces a handful of problems in its current state. At the same time that the higher education financing system is facing these issues, an alternative to traditional student loans known as income-share agreements (ISAs) is gaining attention. There is currently a lack of federal legislation that provides a national framework for ISA providers and students to work within. Policymakers are considering this situation and attempting to address it in a way that properly balances the interests of both ISA student and lenders, but past policy in this arena has had a tendency to cause effects that were not intended. This study seeks to understand if there is a way that policy can be examined that allows for the identification of certain types of policy that result in unintended consequences before the effects go into place. In order to do this, I examine ten higher education financing policy cases over the past sixty years in an effort to establish a theory of policy that causes unintended consequences. I then test this theory using three interviews with higher education experts relevant to the ISA space in an attempt to see if this theory can be applied to additional cases, such as proposed ISA policy. I find that, although it is difficult to establish a theory that predicts if a policy will cause unanticipated results with certain, the findings from my case studies and interviews can serve as a set of lessons of what has worked well and failed in higher education financing policy. As applied to proposed ISA policy, I conclude that policy entrepreneurs in this space will face difficulty in adopting lessons from past policies due to the challenges to policy learning they face in the current legislative climate.
I. Introduction

A. Problems in higher education financing

Roughly fifty years after the enactment of the Higher Education Act, which created the first version of a federal financial aid system for students in 1965, the system has grown in a way that policymakers at the time likely never expected. While President Lyndon Johnson’s intent behind the Higher Education Act was to create one national needs-based scholarship program to further his anti-poverty efforts, a series of political tradeoffs between the Johnson administration and Congress resulted in a bill that included both grant and loan programs in its final version (Lumina Foundation 2014).

According to Hegji, the purpose of the Higher Education Act was to establish a series of federal aid programs aimed at providing assistance to both students and institutions (U.S. Library of Congress 2014, 1). Specifically, Title IV of the HEA authorizes the student aid programs; these programs have grown in number, scope, and funding since 1965 through a series of amendments and reauthorizations. Today, the U.S. Department of Education offers over $150 billion worth of aid each year to students through a number of different grant, loan, and work-study programs (Federal Student Aid 2012). This high volume of financial aid dollars and large range of programs, designed to accommodate all students, have provided opportunity to high-achievers who would not be able to attend postsecondary education otherwise. However, the system in its current state is very complex and can be difficult for students seeking to obtain financial aid to understand.

As college costs have ballooned and more of those who could never finance higher education prior to the creation of financial aid have pursued postsecondary opportunities, an increasing number of Americans have borrowed loans to pay for these opportunities, and many
have found themselves in student loan debt that they struggle to repay. Currently, over 41 million Americans owe over $1.2 trillion in outstanding federal loan debt; the debt incurred by students and their families has tripled over the past ten years (Perna, Kvaal, and Ruiz 2017, 2). While borrowing by both undergraduate and graduate students has increased over time since 1990, the total loan debt of borrowers has skyrocketed in recent years, According to Business Insider, from 2009 to 2017, the student loan debt held by Americans has gone up from $150 billion to $1.3 trillion (Chaparro 2017).

The general public and experts alike consider many of the issues described in the current state of student loan borrowing, including high level of public dollars used to support student lending, the large volume of money borrowed by students, and the inability for some to pay back their debt on time as a “student loan crisis” that has the ability to impact the economy. However, some such as Akers and Chingos (2016) push back on the extent of this characterization, noting that the market for student loans is small and isolated from the private sector (2016, 63). Despite disagreement over the potential that the student loan system in its current trajectory has to cause significant damage to the economy, there is general agreement over the need to address some of its major issues. In addition to the dramatic increase in volume of debt, borrowers currently face the problem of default, which occurs when they are unable to make their repayments on time. Perna, Kvaal, and Ruiz note that in 2015 alone more than one million students defaulted on their Federal Direct Loans (2017, 2). Rather than an entire student loan crisis, some believe that this high level of default suggests a loan repayment crisis instead. Dynarski and Kreisman argue that since 69% of students borrow less than $10,000 and 98% borrow $50,000 or less to finance higher education, most are not actually taking on inordinate amounts of debt as rhetoric suggests.
Instead, the high levels of default, particularly among younger workers, indicate that inability to repay is driving current issues more so than volume of debt incurred by students (2013, 2).

In response to repayment and default issues, the federal government has offered income-driven repayment programs. While these alternate programs were designed to provide borrowers with greater flexibility over how to pay back their debt given their income situation, the growth of income-driven repayment programs has also added great complexity to the aid system as a whole due to the sheer number of alternatives offered. According to the Office of Federal Student Aid website, the Department of Education now offers seven different alternate repayment plans, in addition to standard repayment. Dynarski and Kreisman describe the plans currently offered as a “bewildering array of repayment options” and advocate for this issue to be addressed (2013, 2).

**B. Proposed solutions come up short**

There have been a number of efforts to address the issues surrounding mounting student debt, high default rates, and the confusing amount of repayment programs offered. Perna, Kvaal, and Ruiz note that “[t]he goal of federal student loan policy should be to encourage students to enroll and complete a high-quality educational program by enabling students to obtain the financial resources needed to pay college costs, without producing too great a loan repayment burden” (4). So how have policymakers and other relevant actors attempted to bridge the gap between the stated goals of student loan and other financial aid programs and the realities they have delivered in more recent years? One of these attempts has been loan refinancing. Akers and Chingos discuss the rise of loan refinancing in recent years, noting the role that those who offer this service play in allowing students to reduce interest rates on already existing student loans. While the growth of this practice indicates that some see refinancing as a viable solution to
curbing debt levels and repayment issues, they believe that refinancing is one of the most misguided efforts to solving the problems within the current system, as it significantly aids well-off borrowers more than it provides assistance to those who struggle (2016, 125).

Another push in recent years to respond to problems within the higher education system has been to implement greater accountability at institutions such as for-profit schools. Akers and Chingos believe that students who have the highest amount of debt often face this issue as a result of attending a for-profit institution (2016, 103). On average, students that attend for-profits borrow more than those who attend other institutions; default rates and non-repayment rates are also higher for students at for-profits (Perna, Kvaal, and Ruiz 2017, 3). Those who are concerned over the high default and non-repayment rates for students at for-profit institutions believe that the profit-seeking nature of these schools creates an environment in which those in charge are not as concerned with student outcomes. This lack of concern for student outcomes can result in lackluster post-graduate opportunities, which would likely translate into a financial inability to pay back loans on time. Efforts to boost accountability measures have focused on establishing greater consumer protections for those enrolled at for-profits and identifying and removing accreditation at weak institutions. However, it is difficult to balance protecting consumer interests with allowing private actors to operate freely, and it is not always easy to identify all the institutions that are more interested in profits than student outcomes.

Given the noted complexity rooted in the number of financial aid programs offered, as well as the process by which someone applies for and receives aid, solutions to the current problems in the higher education finance system also include reducing the numbers of programs offered. Akers and Chingos advocate returning to the idea of a single grant and single loan program present in the original HEA in order to do this (2016, 128). They believe that having
only two types of programs would allow students to better understand the differences between programs and make strong decisions about which options are the best for them to pursue. Perna, Kvaal, and Ruiz also believe that good information is important for students to make decisions about what programs to pursue. They feel that greater simplicity could be achieved by condensing the federal financial aid application form (2017, 4). If students access a financial aid application that is briefer and less daunting, they will likely feel more confident in their ability to understand the different options they can receive and which option is in their best interest.

Although these types of reforms have been discussed, little progress has been made to achieve them.

C. Growth of the income-share agreement space

At the same time that higher education leaders are exploring solutions to issues within the system such as high debt levels, lack of repayment, and complexity in the number of options offered, an alternative to traditional student loans known as income-share agreements (ISAs) is gaining an increased presence in the higher education financing space. An ISA is an education financing mechanism in which a student has the cost of his education covered by a lender in exchange for a percentage of his future income over a set period of time. Although ISAs are not an entirely new idea and have been implemented in other countries around the world, implementation of the model in the United States has been limited until recent years.

Currently, there are a number of private entities and even some educational institutions offering ISAs. In response to this growth, there have recently been efforts in Congress to create ISA policy in Washington, but to little success. Since there is no federal legislation that regulates an ISA, policy that dictates how ISA contracts can be constructed is controlled by the state and varies across the country. Since the existing regulatory frameworks are limited and varied, there
is much ambiguity as to how servicers can offer ISAs and in what jurisdictions. This uncertainty could put servicers trying to provide students with an alternative financing option in legal jeopardy or allow students to fall victim to agreements that are predatory.

With ISAs gaining momentum and members of the public expressing concern over the absence of national regulation of the model, actors within the ISA space are placing greater pressure on Congress to pass legislation that would create a framework in which ISAs could operate legitimately at the national level. However, in examining the history of the federal financial aid system, it becomes clear that we have arrived at our current issues through a series of policy decisions that were made without full consideration of what their results would be. In order to avoid this same type of policy creation, it is imperative to consider the unintended consequences that higher education financing policy decisions over the past fifty years have had and the potential impact creation of ISA policy may have on the system moving forward.

D. The role of unintended consequences in policymaking

Akers and Chingos challenge policymakers to put forth a legislative agenda that realigns the federal student aid program with the goal of eliminating issues that make higher education unattainable for some individuals while simultaneously minimizing unintended consequences for the higher education system as a whole (2016, 125-26). As part of these efforts, they advocate for the implementation of income-share agreements. Although these two scholars see a realistic and attainable path forward for this agenda, history indicates that that even when policy is thoughtfully constructed and motivated by the best of intent, it can still fail in practice.

Inherent in the idea of policymaking is the idea of tradeoffs. Congress may have to remove a provision of a bill to obtain the President’s backing. A senator may have to add language to a draft in order to get another senator to co-sponsor the legislation. These tradeoffs
don’t just occur for those directly involved in the policymaking process. Policy can create winners and losers in the general public. One demographic group may be rewarded by a certain policy at the expense of another group. These tradeoffs also play a role in terms of available resources as well. Funding can be taken from one program and allocated to another whether or not this is the responsible financial decision, and time devoted toward one legislative priority puts a constraint on others.

In an attempt to better understand why good policy fails and the role that tradeoffs play in policy outcomes, researchers have devoted significant efforts to map out the policymaking process. In fully understanding the different stages of the process and the factors that can influence each stage along the way, scholars hope to predict outcomes, which can then assist practitioners in crafting policy that will have good results. Despite all the research dedicated to policy and how the policymaking process functions, academics and legislators alike still find themselves unable to predict outcomes that, post-facto, appear to be foreseeable.

For example, in 2009, The Car Allowance Rebate System (CARS), more commonly known as the Cash for Clunkers program, handed out credits to car dealers to distribute to those who traded in a less fuel-efficient car for a more fuel-efficient one (Mian and Sufi 2012, 1107). The purpose of this policy was to provide a stimulus to the auto industry through new car purchases while also increasing fuel-efficiency by removing low fuel-efficient cars from the road (Schwartz 2012). However, Cash for Clunkers did a poor job achieving either goal. Mian and Sufi find that sales varied widely from state to state during the program, and after it ended, auto purchases dropped steadily. Schwartz notes that the fuel-efficiency objective was not fulfilled either, as those who owned less fuel-efficient cars often simply traded in that older car for a newer, but still low fuel-efficient one.
Similarly, in 1965, the Immigration and Nationality Act caused effects that were not accounted for in the legislation’s original intent. In an attempt to replace old immigration quotas with a system that was more family-based, the new law dramatically altered the U.S. population’s composition in a way that was unintended (Gjelten 2015). While the bill’s intent was to limit the number of Southern and Eastern European immigrants entering the United States, the result was a shift away from a trend of immigration from Europe as a whole to a body of immigrants that came from Asia and Latin America (Massey and Pren 2012, 1). Massey and Pren describe this impact as “a complicated tale of unintended consequences,” as the goal of the law was not to foster Asian and Latin American immigration growth but that was seen largely as the effect (1).

Given all the ways that policy can go wrong and the difficulty that exists in being able to identify why a policy might fail, what types of factors should policymakers consider when creating new legislation? Can we examine cases from the past in which a policy faced a particular challenge in practice in order to flag this issue for future policymakers to be aware of? In higher education, the existence of federal financial aid programs is relatively new, but there nonetheless appears to be a solid group of policies from which unintended consequences can be explored. This type of study is particularly well timed, given the emergence of income-share agreements in higher education finance and the traction that ISAs have been gaining in recent years. By looking at key policies that have shaped the history of higher education finance and focusing on the unintended consequences of these policies aimed at removing financial barriers for those seeking postsecondary opportunities, this study looks to understand the causes of unanticipated consequences set in motion by previous legislation. In understanding these key lessons, the research also hopes to use these causes to better understand the relationship between
policy and unintended consequences, as well as apply this relationship to identify potential policy pitfalls in currently proposed ISA legislation that could be avoided.

In order to create a baseline understanding of the income-share agreement model and provide the context necessary to trace the path from which the growing ISA industry in the United States developed, the first section of this thesis explains ISAs and how they function, as well as presents the history behind the ISA model. After this necessary understanding and context is provided, I will then explore the current academic perspectives used to study income-share agreements and the theory of unintended consequences. Situated within this exploration is an evaluation of the different bodies of literature that compose knowledge on both topics; this evaluation serves as method through which I will position this study as one that can add new understandings to the identified topic arenas.

From here, I will transition from background to the original study core to this thesis. First, I lay out the questions the study seeks to answer and develop a set of hypotheses I look to test. Then, I model the two-step qualitative research study designed to test these hypotheses through a series of case studies and interviews. From there, I walk through both steps, present the findings gathered from each, and analyze the findings. I conclude with a discussion of what the study’s analysis illustrates about the validity of the hypotheses and what the implications of these conclusions for the ISA regulatory efforts and public policy field are.

II. What is an Income-Share Agreement?

Since income-share agreements are a novel higher education financing tool that are relatively unknown to those outside the higher education and education policy space, this section presents what an income-share agreement is, explains the roots of the income-share agreement
model, and lays out the developments that have occurred over the years that have led to the current state of the income-share agreement space.

An income-share agreement (ISA) is a contract in which “investors provide students with financing for higher education in exchange for a percentage of their future income for a defined period of time after they finish school” (Palacios, DeSorrento, and Kelly 2014, 3). Given Palacios and DeSorrento’s position in the space as CEOs of two of the most prominent companies (Lumni, Inc. and Vemo Education) to offer ISAs in the United States, this thesis will rely on their definition of an income-share agreement. ISAs are similar to loans in that they permit students who do not currently possess the financial means to obtain a degree or certification to borrow to finance their education. However, with traditional loans, a lender provides a student with the capital to pay for his or her program, and the student must pay the lender back the amount borrowed plus interest in a series of payments over whatever period of time it takes to pay off the balance.

The main differences between an ISA and a loan exist in terms of what drives repayment and the way that time factors into this function. For ISAs, each regular repayment that someone makes after completing his or her education is driven by that person’s income at that time. On the other hand, loan repayments occur on a more fixed basis and are generated as a result of the terms of the contract and interest, both of which range from case to case. In terms of how time factors into both models, for income-share agreements, the duration in which someone will make their repayment is fixed from the outset of the agreement. For traditional loans, someone who borrows may have an estimate of the duration of their repayment, but the period does not end until the original amount borrowed plus whatever interest is accrued is repaid.
The idea behind the income-share agreement model originated in economist Milton Friedman’s “The Role of Government in Education (1955). In this paper, Friedman explores the role that government should play in different types of education; he ultimately concludes that if the government were to offer an individual funds for his or her professional education “not as a subsidy, but as “equity” capital,” and in return, he or she repaid “a specified fraction of his earnings above some minimum,” then the existing problems in the marketplace would be eliminated and individuals would have greater opportunity to productively invest in themselves (1950, 136).

In the 1970s, Yale University adopted Friedman’s model with some slight modifications. Instead of the government providing one individual with the money needed to finance his or her education in return for a share of his or her future earnings, Yale would allow a group of students to defer tuition payment in exchange for a percentage of their income until the entire group’s tuition was paid off. This creation was called the Yale Tuition Postponement Plan (TPO), and according to West those who participated agreed to “repay Yale 0.4 percent of their annual adjusted gross income per $1000 deferred over a term not to exceed 35 years” beginning in 1971 (1976, 169). Although the TPO was the first income-contingent loan program to be implemented, it ultimately proved to be unpopular amongst Yale students. Palacios Lleras (2004) notes that students enrolled in the program did not like having to make payments on behalf of students who were unable or perhaps just did not want to repay (126).

After the unpopular Yale Tuition Postponement Plan, the income-share agreement model languished until the 2000s. At this point, a number of different startups and investors began to enter the ISA space, creating their own models based on Friedman’s original idea. At a June 2017 Bipartisan Policy Center event, Purdue University President Mitch Daniels shared that in
2016, Purdue became the first major U.S. research university to offer an income-share agreement program since Yale’s efforts. Purdue’s “Back a Boiler - ISA Fund” is modeled in a way that Purdue graduates receive a six month grace period and then pay a percentage of their income based on anticipated salary in their field over a period of about ten years (Back a Boiler Overview 2016). According to Purdue’s “Back a Boiler” website, “[t]o date, there are 478 contracts with students enrolled in Back a Boiler - ISA Fund who have received funding totaling $5.9 million.”

While Purdue is the pioneer in terms of higher education institutions offering income-share agreements, other smaller private colleges have recently followed its lead. At the June 2017 Bipartisan Policy Center event, then-President of Washington College (Chestertown, MD) Sheila Bair shared her desire to create an income-share agreement program similar to Purdue’s. By late 2017, both Lackawanna College (Scranton, PA) and Clarkson University (Clarkson, NY) publically announced their efforts to develop ISA programs through partnerships with Vemo Education, a company that assists institutions in creating income-share agreement programs. There are also a number of vocational schools and coding academies experimenting with ISAs.

Outside of educational institutions that offer ISAs, there are a handful of startups and companies that are also servicers. In 2003, Lumni became one of the first firms to provide income-share agreements on the U.S. market (Bloomberg). Lumni entered the U.S. market after successfully offering ISAs to students in Latin American countries such as Peru and Chile. Since 2003, groups such as Vemo, Goal Structured Solutions (GS2), 13th Avenue Funding, Hello Align, and Paytronage have joined the income-share agreement space in the United States, causing the market for ISAs to expand substantially in more recent years. In February 2018,
StockMarketWire reported that from 2016 to 2017, the dollar amount of ISAs offered increased 300% to $25 million, indicating that this space may continue to grow.

Now that an income-share agreement has been defined and its background provided, I will next present how existing scholarly work understands ISAs.

III. Blending Concept and Theory

This section evaluates two different bodies of literature – income-share agreements and the theory of unintended consequences – in an attempt to position this thesis as a scholarly work that can add new knowledge to both arenas. Given the last part of the study focused on the idea of income-share agreements, I will start there and present the different perspectives that shed light on ISAs and how they can play a role in higher education financing. After that, I will trace the theory of unintended consequences from its roots to its position in public policy today. Both reviews will conclude with what existing literature tells us about how we currently understand each issue and how the subsequent sections of this study seeks to further this understanding.

A. Four Approaches to the ISA Landscape

Since the idea behind an income-share agreement (ISA) is relatively new in the U.S., dating back to the 1950s, all literature is from the past fifty or so years, with most of it coming out the past decade. As previously mentioned, Friedman is commonly viewed as the founder of the idea that would develop into the income-share agreement model. Between his paper in 1955 and the 2000s, scholarly work does not exist. This is likely due to the commonly viewed failure of an attempt by Yale University in the 1970s to implement Friedman’s idea in the school’s Tuition Postponement Program (TPP).

In recent years, quite a bit of research on income-share agreements has been conducted. With major changes and problems occurring in today’s higher education landscape and its
associated financing system, scholars have become more interested in exploring solutions to these problems. ISAs have served as one of those potential solutions. Major works such as Miguel Palacios Lleras’ (2004) *Investing in Human Capital: A Capital Markets Approach to Student Funding* and Beth Akers and Matthew Chingos’ (2016) *Game of Loans: The Rhetoric and Reality of Student Debt* attempt to insert income-share agreements within greater discussions surrounding how to address economic and financial issues in higher education. Outside of these books, a number of articles and reports published by educational institutions and think tanks have explored the viability of ISA implementation. These efforts come in light of the growth of the ISA industry and attempts by Congress to propose legislation that would regulate ISAs at the federal level.

While much of the existing literature reviews the ISA model and potential implementation in a positive light, there are a number of different perspectives from which the literature explores the role that ISAs could play in higher education financing. Additionally, scholars are also well aware of the common criticisms of ISAs and recognize the potential pitfalls that could result moving forward. The following portions will present the different scholarly perspectives to ISA research and exploration, identify the relevant authors and arguments within each perspective, and situate this work’s position within the existing literature in order to illustrate how it seeks to add knowledge to what is already known about income-share agreements.

i. **ISAs as an Alternative Finance Tool**

Since some seeking to fix problems in the higher education finance system see ISAs as a potential solution, one body of ISA literature explores the viability of income-share agreements as alternative to current issues in higher education financing. In *Game of Loans*, Akers and
Chingos note the problems that exist within the higher education financing system as is, such as high levels of debt amongst students who borrow, risk allocation in student lending, and repayment and default issues. They conclude that income-share agreements could play a role in repayment reform by boosting the role that the private sector plays in higher education financing by providing students with a new form of lending that has a different repayment structure than that of traditional federal student loans. In her 2014 Brookings Report, Akers discusses the role that income-share agreements could play in addressing issues within the current state of higher education financing more directly than she does in Game of Loans. In this report, she indicates three main areas that ISAs can provide benefit: reallocation of risk, better information about quality, and lessened psychological cost on borrowers.

Horn and Laxton acknowledge that although the existence of federal and private student loans has allowed those who cannot afford increasing tuition costs to attend higher education, permitting students and parents to borrow up to the full cost of attendance can cause tuition cost to rise, another problem commonly cited in higher education today (2017). The report goes on to argue that since traditional private loan servicers will only lend to students who have a good credit score or a cosigner, some high achievers are left without an opportunity for higher education since they cannot access capital to finance it with. It then presents the impact that ISA programs could have on these issues by providing an alternative and paves a way forward for programs to be scaled up.

The American Academy of Arts and Sciences (2017) and Tyszko and Sheetz (2017) promote ISAs as part of their larger arguments about how to address the issues of higher education affordability and investment in education. While these arguments are not as related as previously mentioned ones to debt and repayment associated with student loans, these two
reports still support ISA implementation as a solution to current problems faced by members of the higher education system. The American Academy of Arts and Sciences presents ISAs as an experiment through which students can finance their education without depending on a complicated and inflated public system. On the other hand, Tyszko and Sheetz sees income-share agreements as a mechanism that can encourage new ways for people to think about investing in education.

Baskerville and Fitzpatrick (2017) and American Institutes for Research (2015) express similar concerns to the American Academy of Arts and Sciences in terms of higher education affordability but are more specifically concerned with affordability for low-income students and whether or not ISAs can promote greater opportunity for that demographic. Baskerville and Fitzpatrick believe that ISAs have “great potential given they offer a cost-efficient manner for low-income students to meet college funding gaps” and that developments in the ISA space should be tracked in order to better understand how ISA programs can best fulfill that potential (29). AIR notes that in theory, income-share agreements could promote better outcomes for low-income students who have been underrepresented in higher education by providing a greater safety net than loans do. However, the report finds that under their evaluation of the current market and regulatory environment, no more than five percent of low-income students would likely be eligible to receive an ISA (3).

While these authors differ in the issues with the higher education financing system that they identify, they all recognize that ISAs could be a potential solution to commonly cited problems. Rather than simply identifying problems and putting forth that ISAs could be a solution, some of the literature ties in relevant economic, financial, and legal concepts as well. However, this body of literature as a whole fails to do this. For a greater consideration of these
concepts and the relationship that exists between the ISA and those perspectives, I next turn to two more schools of thought.

iii. Economic Perspectives on ISAs

A solid amount of work has been done to examine the role that income-share agreements can play in higher education from an economics perspective. Given the fact that ISAs are a finance instrument and thus can have an impact on the economy if implemented on a large scale, this perspective seeks to examine that impact. Scholars such as Palacios Lleras (2004) take a markets-based approach to understanding how income-share agreements can have an effect on current economic factors such as market efficiency and human capital. He argues that rather than financing higher education through debt, as student loans do, the system would operate more effectively if a different approach was taken; the approach that he describes views education financing as an investment through equity. The book concludes that implementing this approach through “human capital contracts” (HCCs), a key idea behind the ISA model, would not only bring economic benefit to students, but also to the country as a whole.

Palacios further makes his case for income-share agreements as a tool that can bring economic benefit alongside DeSorrento and Kelly (2014) in an AEI report that explores the role that ISAs can play in combating government and market failure, promoting protected opportunity for students, and creating a greater mechanism for strong information quality in the marketplace. Outside of Palacios, DeSorrento, and Kelly, AEI has conducted a strong body of research on income-share agreements and the benefit they can bring to higher education and the U.S. economy as a private-sector financing tool. James (2016) presents the issues that can arise out of information asymmetry in the higher education finance system when lenders such as private loan companies take advantage of lax regulation and argues that ISAs can mitigate the
chances this type of predatory lending occurs. He believes that the private-sector nature of an ISA allows for more available funds for student aid; additionally, James explains how the incentives that drive lender behavior under the ISA model are more closely aligned with student interest. With shared information between the supply and demand sides of student aid, he believes that the market for higher education can function much more effectively.

Rustin IV, Grayson, and DeGroote (2017) from also see the value that better information and transparency can have on the economic forces that drive higher education financing. They believe that ISAs allow students to make better-informed decisions about investing in their education. Since the model is outcomes-driven in the extent that lenders seek to maximize strong student outcomes (larger return on their investment) and minimize poor student outcomes (avoid facing a loss), these scholars put forth that under this model, decisions will be largely informed by predictions and data, resulting in better made decisions by both students and lenders.

An income-share agreement is similar to a student loan in that both are a form of borrowing used to finance higher education, but the two are fundamentally different in terms of model and the impact each can have in the economy. Thus, scholarly work attempts to explore this discrepancy and try to predict how the development of ISA programs could alter the economic principles that currently drive the higher education financing system. This school of thought is very useful in understanding how income-share agreements function in an economic sense and the role they could play in the U.S. economy if ISAs became a widespread higher education finance tool. However, the economic approach to studying ISAs can be a bit theoretical or conceptual. For a discussion of how scholars view the way that law or regulation could constrain this theory, I turn to the next perspective in ISA literature.
iii. Legal/Regulatory Perspective on ISAs

An ISA is neither financial aid provided by the federal government nor a student loan offered by a private lender, the two main types of assistance higher education students can currently take advantage. Thus, it is not entirely clear how this new model should be treated under current law. Since there is currently no federal policy governing ISAs, this matter is left to the states, which allows for income-share agreements to be treated differently under law depending on the jurisdiction under which ISAs are being considered. Additionally, this lack of federal recognition and regulation prompts some to doubt the legitimacy and potential of ISAs.

James and Holt (2015) note the implementation challenges that income-share agreements face under current regulatory considerations. They argue that although ISAs have great potential to offer benefit to students, existing consumer protection laws for student loans are more harmful than helpful in aiming to offer that benefit; since ISAs are not loans in that they don’t have a principal balance nor an interest rate and applying the same usury rate concept that loans rely on to ISAs impedes on the function of the model, James and Holt push federal policymakers to consider new types of consumer protection laws. They see proper ISA policy striking a balance between the interest of students and potential lenders. While it is they believe that it is important for proper consumer protections to exist so that students are not taken advantage of, James and Holt are wary to back standards that are so strict that it is not appealing for lenders to offer ISA contracts in the first place. Holt (2017) further emphasizes some of the points him and James highlight in an Urban Institute Report arguing in favor of greater emphasis on private higher education financing; he notes that without a clearer regulatory structure, potential ISA lenders are less likely to enter the space and experiment with best practices that could allow the private sector to have a strong positive impact.
Other works also back the idea of creating regulatory policy at the federal level that will allow for the balance of interest between students and investors in ISA contracts. Oei and Ring (2014) acknowledge that the movement in favor of greater federal regulation of ISAs has been growing, but they criticize the approach that these efforts have taken. They argue that since ISAs can vary depending on who is offering the contract, the terms of the contract, and the circumstances driving the agreement, it is not useful to put into place regulation that governs the entire income-share agreement space as a whole. Oei and Ring believe that creating policy that allows ISAs to be assessed and regulated on a case-by-case basis is much more effective and equitable. Furthermore, these two address a very important criticism toward the ISA model from a legal perspective. They note that some compare income-share agreements to indentured servitude. Those who put forth this criticism believe that allowing a student to indebted himself to society’s investor class could result in a situation in which the student would forfeit his rights indirectly through means of financial contract. Once again, Oei and Ring discuss that while the argument is not unfounded, ISAs range too largely to categorize the model as a whole as something that can be considered indentured servitude and cite legal counterarguments to the claim.

Although James and Holt discuss why from a legal perspective an ISA is not a student loan, American Institutes for Research (2015) finds a contradiction to this claim that warrants important consideration. The 2015 report asked a group of financial aid administrators from various campuses to discuss their experience with income-share agreements in order to better understand how an ISA would be packaged in with the rest of a financial aid award given to a student on campus. Since there is no federal policy or directive from the Department of Education that guides how administrators should deal with ISAs, AIR finds that financial aid
administrators must exercise their best judgment and that most would report an ISA as a private student loan.

Overall, the lack of legal clarity and regulatory structure surrounding ISAs sparks a discussion amongst scholars about the future of the income-share agreement space under current considerations and how the space could potentially develop further with clearer governing structures in place. Many of the key legal and regulatory questions scholars pose, including the ones mentioned above, are useful to consider; they will continue to be debated until ISA providers find a way to most effectively navigate the current situation or structural changes are made to the framework that the providers are working in.

iv. Understanding Public Perception of ISAs

The presence of ISAs in the public eye is very new, so a body within the modern literature highlights the level of ISA awareness student consumers and their parents hold, as well as the general attitude of those who are familiar with the model feel toward them. Research indicates that few parent and student consumers are familiar with income-share agreements. In January 2016, American Institutes for Research (AIR) conducted a series of interviews aimed at understanding how students and parents make the decisions necessary to finance higher education in order to explore how they would view income-share agreements. For many of the participants, the interview was the first time they had ever heard of an ISA (4). Similarly, A recent American Enterprise Institute national survey of both current college and high school students as well as current and future college parents found that at the outset of the survey only seven percent of students and five percent of parents were familiar with ISAs (Delisle 2017, 4-5).

While the level of initial awareness that student and parent consumers of higher education hold toward income-share agreements is rather consistent across studies, their attitude
toward whether or not the model is favorable is more mixed. Holt (2016) posits that the results of his focus group study on ISAs indicate that participants generally viewed the alternative to student loans positively. The January 2016 AIR study also notes that about half of students preferred an ISA to a student loan when the two were compared side by side in simple terms (5). However, research indicates that once the more detailed terms of an ISA are explained to students and parents, attitudes range more. For example, AIR finds that after provided with a more detailed comparison between a hypothetical ISA and student loan, interviewee responses were less favorable toward ISAs. On the contrary, Peek, Mason, and Soldner (2016) find that the specific flexibility and fixed payment components of an ISA are two components key to certain individuals’ preference toward ISAs.

Holt similarly finds in his focus groups that flexibility is one of the most attractive characteristics of an ISA in addition to the protections that an ISA allows a student consumer if he faces low income or unemployment. However, interestingly enough, flexibility also proved to be a common theme cited by participants who disliked ISAs, as they believed a disadvantage to the model was that you could not pay it off earlier than the original terms agreed upon. In terms of allocation of risk, Holt notes that disagreement over the importance of protecting against a negative outcome (downside risk) versus the potential of having to pay significantly more than one would have to under a loan (upside risk) proved to be a major dividing factor amongst focus group participants. Delisle sheds further light on the importance of risk to student consumers, indicating that 38% of his survey respondents said that ISAs are riskier than student loans, compared to 34% that said student loans are more risky and 28% who were unsure (2017, 6).

Despite the existence of research that shows certain groups of student and parents feel positively toward ISAs, Evans, Boatman, and Soliz acknowledge the bias implicit when
comparing an ISA and a student loan side-by-side as much of existing research does (2017). They find that by simply framing a borrowing mechanism as a loan, despite its potential similarity to an ISA, high school and community college students are less likely to express preference for the tool labeled as loan. In their study, when a loan and ISA were presented side-by-side and not labeled, more students preferred a loan over an ISA. This research can potentially be used to shed light on the inconsistent attitude that student and parents feel toward the income-share agreement model across the board, as different ways of communicating an ISA may produce a difference in opinion.

Ultimately, this body of literature focused on understanding how student and parent consumers feel about income-share agreements informs the space in a few ways. First, the general public does not have very high awareness of ISAs. Secondly, when presented the ISA model at a glance, consumers appear to be interested in learning more about how it compares to traditional student loans. However, once these students and parents come to understand the specific components of an ISA, they tend to differ in terms of opinion depending on their stance on important themes such as allocation of risk and flexibility of payment.

Since research focused on understanding how students and parents view ISAs is only a few years old and concentrated amongst a rather small group of authors, future efforts to study consumers of higher education may provide new insights. Additionally, as the ISA space is constantly evolving, conclusions reached in current literature may not apply to future student and parent perspectives.

Despite the proliferation of literature focused on ISAs from the variety of perspectives presented in this section, there is a lack of overall effort within the academic community to examine the strengths and weaknesses of prior higher education finance policy decisions in an...
effort to compare those cases to the current legislative proposals in Congress aimed at guiding the income-share agreement space. Unintended consequences, or the idea that public policy can result in consequences that the policy creators did not intend to occur, could be a useful lens to examine how current proposed policy could alter the ISA space for better or for worse. In the next section, I will trace how understandings of unintended consequences have developed over the years and how the concept plays a role in the policymaking process today.

**B. Tracing the Theory of Unintended Consequences**

The theory of unintended consequences has been used over the years to analyze issues in economics, sociology, and political science. Norton defines the theory as the idea “that actions of people—and especially of government—always have effects that are unanticipated or unintended” (2008).

Early works that explore the idea of unintended consequences and the impact that they can play in society include John Locke (1691), Adam Smith (1776), and Frédéric Bastiat (1848). In Locke’s 1691 letter to Sir John Somers of Parliament, he advocates against new interest rate regulation that Parliament is considering, warning that he believes lowering the interest rate would actually hurt borrowers, rather than help them as the policy was intended. Smith presents the idea of the “invisible hand” – that an unknown force can push an individual toward an outcome that he did not intend for. Contrary to Locke’s perspective on unintended consequences, Smith sees that they can play a good role in society. He notes that an individual, in “pursuing his own interest…frequently promotes that of the society more effectually than when he really intends to promote it” (400). Bastiat (1848) distinguishes between the effects that an action or policy can have on society in his essay “What Is Seen and What Is Not Seen”; he believes that the difference between a good economist and a bad one is
that a bad one can only consider the immediate effects of an action or policy, while a good economist recognizes the both the immediate effects and the ones that must been foreseen. The immediate effects Bastiat notes are often the intended consequences of policy, while the ones that must be foreseen are generally effects that are unintended.

While Locke, Smith, and Bastiat represent early attempts to understand unintended consequences and the role that the theory plays in society, Merton’s 1936 article “The Unanticipated Consequences of Purposive Social Action” is the most comprehensive modern work associated with unintended consequences. In this article, Merton identifies five causes of unintended consequences: ignorance, error, short-term interest, values, and public predictions. While Merton draws from the sociological perspective in identifying these causes, other modern scholars such as Wildavsky (1979), Kingdon (2010), Perri (2010), and Stroh (2015) have attempted to more closely tie together the theory of unintended consequences with public policy.

From his experience with the policymaking process in Washington and his research into policy implementation, Wildavsky concludes that “[t]he more the nation attempt[s] to control public policy, the less control there seem[s] to be” and “[t]he more we do, therefore, the more there is for us to do, as each program bumps into each other and sets off consequences all down the line” (4). He sees these consequences as having effect out of human control but also believes that the results do not always work against public interest. Similarly, Kingdon notes the dual existence of positive and negative unintended consequences in public policy (2010). He sees negative consequences caused by policy as something that can certainly cause problems, but he also discusses how they can indicate the presence of larger, more systemic issues, which policymakers can then use to more thoroughly reform whichever arena they are working in. Kingdon also discusses how unintended consequences can have a positive impact; he offers the
example of the fifty-five mile per hour speed limit, created for fuel saving purposes, which resulted in safer highway environments (103).

Perri 6 expands upon the general classification provided in Merton’s five different causes of unintended consequences by establishing a more rigid framework for definition and classification of consequence in the context of policy. He defines “a policy outcome [that] might be unanticipated, unexpected, unforeseen, [or] unintended” as “one that transpires, but which was not conceived in advance by the policy-maker” (2010, 51). He then creates a set of eight types of consequences based on whether or not the consequence was anticipated, intended, or welcomed. In providing this definition and classification scheme, Perri seeks to address confusion that has long-existed in the study of unintended consequences due to an inability to more specifically pinpoint and explain ideas implicit in the theory. While Perri 6 simply provides a framework for defining and classifying unintended consequences with the goal of promoting a better understanding of the phenomenon and the implications it has on public policy, Stroh seeks to apply systems thinking to policy issues in order to avoid unintended consequences. He believes that if legislators use systems thinking, or “the ability to understand these interconnections in such a way as to achieve a desired purpose,” they can predict and eliminate unanticipated consequences of policy prior to their development, and he provides a guide through which this goal can be achieved (2010, 16).

Outside of understanding the role that unintended consequences play in public policy creation and implementation, scholars have also applied the theory to specific cases. Two examples mentioned were earlier – Cash for Clunkers and the Immigration and Nationality Act – but there are certainly others that span across a variety of policy arenas. Perry provides a number of different examples including how seat belt laws increased the number of car accidents,
regulations that reduced logging in national forests may have resulted in more acres being
deforested, cigarette taxes can decrease government tax revenues, and gun buyback programs
result in more guns (2013, 2014).

Despite the wide array of unintended consequences discussions specific to different
policy arenas and cases within those arenas, there has not been as much effort to identify the
existence of unintended consequences in higher education policy outside of the Lumina
In the first chapter of the film, “How Did We Get Here: Growth of Federal Student Loans,”
discussions surrounding a number of significant policy decisions that have guided the federal
financial aid program from its creation to today by those who were involved in those decisions
are framed with the lens of unintended consequences. However, the chapter concludes in 2010,
prior to the push by companies and institutions to offer income-share agreements and the
corresponding growth of literature aimed at understanding ISAs from a number of different
perspectives. So, this study seeks to apply unintended consequences to the higher education
policy arena similar to the Lumina Foundation’s approach but also extend the scope of research
to today by using a current case of the proposed income-share agreement policy. This lens may
be usefully applied here in order to assess the drafted ISA policy in an attempt to understand
what impact it could have if passed prior to the policy going into place.

The next portion of this thesis will layout a methodology through which a series of case
studies supplemented by interviews seek to add a better understanding to literature on ISAs and
unintended consequences in the ways identified above. First, I will present a series of research
questions that the study seeks to identify. Then, I will explain the process by which a model was
developed to answer these questions and flesh out the rest of the research design that guides the qualitative findings that follow.

**Methodology: A Qualitative Two-Step Analysis**

This section poses a series of three interconnected research questions that drive the rest of this thesis. From these questions, I develop three similarly related hypotheses to test through a qualitative study. A discussion of the study’s design and methodology is presented after the hypotheses are laid out in order to provide deeper understanding of how the findings discussed in the next section were generated.

**A. Research Questions**

This paper poses a series of related questions that seek to add knowledge to American public policy research. More specifically, these questions focus on the ideas of policy creation and policy learning within the larger scope of existing literature. Crucial to this work’s model are a background on the history of federal financial aid and an understanding of the theory of unintended consequences, which are both discussed within the scope of this thesis, as well as a familiarity with the policymaking process in Washington, which is assumed on the reader’s part.

The core question to be answered through this paper is: how can unintended consequences created by higher education finance policy serve as a lens from which political scientists can better understand the impact that certain types of policy can have in this arena? In the development of federal student aid programs over the past sixty years, a series of intentional and unintentional effects have occurred as a result of policy decisions made by a variety of different actors. This work seeks to understand if there is a way to study these policies and their unforeseen results in order to determine if there is a set of commonalities between situations that have led to the development of unintended consequences in higher education.
By looking closely at policies from which unintended consequences in the higher education finance arena resulted, certain patterns may emerge that could be used to better understand what policy factors are at play. If scholars believe that policy can create unintended consequences, then there must be some sort of relationship between policy and consequence. To what extent can policymakers use this relationship in order to better understand how to avoid creating unintended consequences in the education system?

In order to tie these questions rooted in history and theory to the current problem outlined in the introduction, I ask thirdly: how can these conclusions be applied to policy surrounding income-share agreements in order to minimize the chances that proposed policy, if passed, cause unintended consequences? Income-share agreements are growing in number of servicers as well as in public presence, and with two bills aimed at regulating income-share agreements proposed in the current Congress, it is an appropriate time to examine what themes amongst higher education financial aid policies have led to unintended consequences. In performing this examination, it is the hope that information can be gathered that can help policymakers shape federal ISA policy that will not result in unintended consequences.

**B. Model & Hypotheses**

The federal financial aid growth and policy developments that have occurred since the first federal loan program was created through the National Defense Education Act in 1958 have transformed both the U.S. higher education system itself and the country as a whole. While the changes that occurred over the years due to policy creation were presumably intended to help more Americans go to college, in retrospect, one can see that sometimes changes resulted in effects that were unforeseen and at times detrimental. Now, sixty years since the first federal loan program was created, there exists a set of various higher education policies that, upon closer
consideration, can potentially shed light on how policy creation in this arena can shape the system through both intended and unintended effects.

The objective of this research is not to simply understand higher education policy created since 1958, but rather to make connections between a set of relevant policies that have brought the financial aid system to where it is today. In making connections across these different policies, this thesis aims to identify whether a certain set of conditions exist that make it so a policy is more likely than not to result in unintended consequences. If there is indeed a set of conditions, the idea is that policymakers could potentially use this to determine if unintended consequences would result from a policy decision during the creation process rather than thereafter.

Thus, the research questions posed earlier and model described above set up three different hypotheses to be tested.

1. If financial aid policy since 1958 has resulted in unintended consequences on multiple occasions, then we can compare those occasions in order to better understand what type of policies result in unintended consequences.

2. If above is true, then we can use the identified relationship between policy and effect in order to minimize future unintended consequences from policymaking.

3. If both one and two are true, then conclusions drawn can be applied to pending income-share agreement legislation in effort to prevent the development of unintended consequences, and these lessons can potentially be applied across the policy spectrum.

The premise behind these hypotheses is that if a number of unintended consequences in higher education financing have recurred over the years, there may be a way to understand what has caused these consequences in comparing the situations side-by-side. If a comparison does
show a commonality, this may reveal a set of characteristics related to policy that could indicate the potential for unintended consequences to result is more likely than not. Finally, in examining the present, it would be interesting if, using the arguments above, it is possible to use lessons learned to prevent potential future ISA policy from creating unintended consequences.

C. Research Design

Over the years since a federal financial aid system was formed in the U.S., a number of different policies have driven the system to where it is today. In order to test whether there are a set of characteristics present in the creation of policy that cause unintended consequences to result, I perform a comparative case study of a handful of financial aid policies from 1958 to the present. These cases are similar in that they all are federal legislation created to further develop financial aid programs or correct perceived issues within the system. However, they vary in that each case occurred at a different time, had a different specific purpose, and resulted in different changes for U.S. higher education.

The Lumina Foundation’s 2017 documentary entitled “Looking Back to Move Forward: A History of Student Financial Aid” features many policy decisions that were crucial in shaping the financial aid system throughout its history from the perspective of those involved in those decisions. The first chapter, “How Did We Get Here: Growth of Federal Student Loans,” published in 2014, traces the expansion of the federal student loan program through the lens of unintended consequences. The ten policies highlighted in this chapter serve as the cases for my study. In presenting each case, I provide the policy’s purpose followed by the results that it led to in order to provide a foundation for further analysis. In order to establish purpose and effects, I use the discussions surrounding each of the ten policies in the film as the primary source of
information from which my analysis stems. However, I also verify this information using key legislative documents of each policy and existing analyses conducted by scholars.

To analyze each case in this comparative study, I first note the words and phrases present in each policy discussion. From there, I analyze the various effects that the policies created in an effort to establish a set of common themes. Once themes are established, I use these themes to design a code. This code is meant to identify characteristics of each policy that caused the result of unintended consequences, which are assumed to have occurred given the discussion framing provided by the film, through reoccurrence of code across multiple cases. Finally, the three or four codes that repeat most often serve as my theory for what characteristics are more likely than not cause the unintended consequences in financial aid policy.

To test this theory using a present-day example, I interview several actors relevant to the creation of pending federal income-share agreement legislation. I ask them if, given their expertise, they believe that the causes identified in my theory result in unintended consequences. I also ask them if they considered these factors in creating the ISA bills, in an effort to minimize unintended consequences.

At the conclusion of this study, I reconcile the theory generated through the comparative case study with the information I gathered through interviews in order to conclude whether or not it is possible to determine if certain policy in higher education finance causes unintended consequences. Then, I will use this conclusion to determine what, if anything, the relationship between policy and unintended consequence can teach about the ability to predict whether or not a policy will result in unanticipated results. Finally, I will apply these discussions to the proposed ISA legislation and explore what implications these findings have on policy creation as a whole.
V. Findings

This portion of this thesis lays out the evidence gathered through the above established research design in an attempt to answer the thesis’ research questions. First, I present my case studies and analyze them in order to develop a theory that is then tested using interviews with higher education experts who have had a role in current ISA legislative work.

A. Case Studies

In this section, the ten policy decisions highlighted in “Chapter 1: How Did We Get Here: Growth of Federal Student Loans” of Looking Back to Look Forward that serve as the case studies for this research are presented. For each case, I provide brief context followed by the policy’s purpose and the effects that it had. After the case studies are presented, I analyze the policies through a code system created from a set of common themes across the ten policies and discuss. This analysis will lead to a theory that aims to predict which characteristics of higher education finance policy cause unintended consequences.


The National Defense Education Act (NDEA) created the first federal student loan program in the United States, the National Defense Student Loan (NDSL) Program. As described in Looking Back to Look Forward, the purpose of the NDSL Program was to provide assistance to students to study science and engineering in the hope that they would go on to aid the country in increasing capacity for defense during the Cold War. The NDEA permitted schools to give out student loans through the NDSL by providing campuses with funding necessary to grant low-interest loans (Lumina Foundation 2014).

Flemming (1960) describes a situation of “personal and social deprivation” in which a number of high-achieving students prior to the creation of the NDEA were unable to attend
postsecondary education due to conditions out of their control (135). He argues that the objective of the NDEA was to prevent this situation and that Titles II through IX achieve this goal by “providing liberal loan programs for students who otherwise would be unable to pay the costs of higher education” (135). This description of the loan program as “liberal” is aligned with the Lumina Foundation’s statement that the NDSL provided low-interest loans to students. More specifically, Title III, entitled “Loans to Students in Institutions of Higher Education” states that the NDSL intended to reduce student dropouts by “materially assist[ing] institutions of higher education to retain their more competent students who need financial assistance in order to continue their studies,” which corresponds with the Lumina Foundation description of the NDSL as a program that provided money to campuses (Graham 1958, 8).

In establishing the NDSL, the NDEA set the precedent for student loan programs to come. By placing emphasis on science, engineering, and other fields relevant to national defense, the policy communicated to the public the country’s priorities at the time. Additionally, in providing financial assistance to needy students, the policy also increased opportunity for those who could not finance higher education on their own at the time.

**ii. Higher Education Act (HEA) (1965)**

The Higher Education Act established both a national scholarship and national loan program through a compromise between President Lyndon Johnson and Congress. As described in *Looking Back to Look Forward*, the scholarship program was designed to be needs based, while the loan program was geared toward middle-income students. The loan program developed into what would be called the Guaranteed Student Loan (GSL) Program; this program functioned in a way that the federal government would guarantee loans through agencies located in a
number of different states, and banks provided the money necessary to fund those loans (Lumina Foundation 2014).

Mercer and Skinner describe the main goal of the HEA as “to expand postsecondary education opportunity, particularly for low-income individuals, and to increase affordability for moderate-income families as well” (2007, 1-2). In comparing the design of the HEA as described in the Lumina Foundation documentary with this provided objective, the two descriptions match up. Title IV, Part B of the original HEA, entitled “Federal, State, and Private Programs of Low-Interest Loans to Students in Institutions of Higher Education,” aids “[s]tates or nonprofit institutions to establish or strengthen low-cost guaranteed loans to students enrolled in eligible colleges, universities, business colleges, and technical institutions” (U.S. Dept. of Health, Education, and Welfare, Office of Education 1965, 11).

First and foremost, the HEA created the first national scholarship program as well as expanded the reach of student loan programs outside of the scope of education geared toward boosting the country’s national defense capabilities. Additionally, while the NDEA provided loans on a needs basis, the GSL Program was designed to lend money to middle income groups. State programs served as the model for the Guaranteed Student Loan Program and thus resulted in a federal scale-up of a state-level initiative to loan students money to finance their education. Finally, the combination of the federal government guaranteeing loans and financial institutions providing them created a complicated public-private partnership that would continue to develop in subsequent years.

iii. Higher Education Amendments of 1972

The Higher Education Amendments of 1972, more commonly known as the 1972 HEA Reauthorization Act, added a secondary market, The Student Loan Marketing Association (Sallie
Mae), to the federal student loan system. As described in *Looking Back to Look Forward*, Sallie Mae was created in order to provide the financial institutions lending money to students with greater liquidity by buying the loans from the lenders and thus providing banks with more capital (Lumina Foundation 2014). The specific provision responsible for the creation of Sallie Mae amends Title IV, Part B of the original HEA with a goal “to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans” (U.S. Congress 1972, 265).

In creating Sallie Mae, the HEA Reauthorization Act of 1972 added further complexity to the already complicated public-private partnership established in the original Higher Education Act. It also added a marketplace to the higher education system that many policymakers did not understand, thus creating a situation from which legislators would be forced to make subsequent decisions despite not having strong information on how the secondary market functioned.

**iv. Middle Income Student Assistance Act (MISAA) (1978)**

The Middle Income Student Assistance Act (MISAA) removed the income requirement of $15,000 per family or less to be eligible for the GSL Program. President James Carter and the Congressional Democrats removed the original income requirement at this time in an effort to appeal to middle income families and win them over as part of their political base (Lumina Foundation 2014). As described in the legislation, the purpose of MISAA was “to provide needed financial assistance to students from hard-pressed working class and middle-income families” (U.S. Congress 1978). A summary by the Congressional Research Service (1978) states that the act achieves this goal in part by removing the adjusted family income requirement for qualifying for a student loan.
Removing the GSL Program income requirement through MISAA had a number of important effects. First, more students were eligible for the program. Since more were eligible for the GSL Program, more applied and received a loan, which meant that a greater number of students were serviced under the program. This caused administrative costs to skyrocket, and as a result budget constraints came into play. In order to address these budget considerations, a student loan origination fee was implemented in the early 1980s (Lumina Foundation 2014).

v. Higher Education Amendments of 1980

The Higher Education Amendments of 1980, also known as the 1980 HEA Reauthorization, created the PLUS Program in order to provide greater financial assistance to families. Under the PLUS program, parents of undergraduate students were eligible to borrow in order to supplement student borrowing. Although the PLUS loans were originally capped, by the time the legislation was passed, these caps were removed so that parents were able to borrow up to the full cost of tuition (Lumina Foundation 2014). Florio (1980) states that the set of amendments that were relevant to the creation of the PLUS Program were changes made to Title IV of the original HEA (21).

According to CRS (1980), as a result of the 1980 amendments, parents of dependent undergraduates were able to borrow under the same terms as the Guaranteed Student Loan Program. In creating the PLUS Program, the HEA Reauthorization of 1980 established a new loan program. This new program granted a new group eligibility for higher education borrowing. In expanding eligibility to parents, not only could a new group borrow for higher education, but also more individuals on the whole became eligible for loans for higher education. By not placing caps on the PLUS Program, the 1980 HEA Reauthorization created a situation in which
parents could borrow as much as they pleased, whether or not it was likely they would be able to pay back the loan as per the terms of the agreement.

vi. Higher Education Amendments of 1986

The 1986 HEA Reauthorization set forth a series of policies designed to address the growing level of default rates. First, students who defaulted on the GSL Program were ineligible to receive further federal student assistance. Accountability measures were also put into place, including language that prevented loan providers from engaging in false advertising practices toward students and incentivizing institutions to secure loan applicants. Finally, the 1986 Reauthorization gave the Department of Education greater oversight and regulatory power over providers (Lumina Foundation 2014).

Amendments to Title IV of the HEA aimed to combat default in a number of different ways. These efforts included, but were not limited to, greater regulatory power by the Department of Education, reinsurance fees, a pilot program for the study of default, more detailed reporting by credit bureaus, and penalties on institutions with high default rates (Congressional Research Service 1986). These provisions established by the 1986 HEA Reauthorization addressed growing concerns over default rates and brought greater attention to the issue. Since students who defaulted were ineligible under the act for further federal assistance, the reauthorization decreased eligibility for aid by limiting those students. Stricter scrutiny of lenders and for-profit institutions and greater intervention by legislators and the Department of Education were also results of 1986’s HEA Reauthorization.

vii. Higher Education Amendments of 1992

The 1992 HEA Reauthorization created the Federal Direct Lending Program. Under this program, the Department of Education was able to provide loans directly to students. The
premise behind this program was that lending directly from the federal government would allow loans to be made more cheaply in light of budgetary and management constraints. In the 1992 reauthorization the Direct Lending Program would serve as merely a pilot program that would develop into a full-scale program in 1993. Other components of the 1992 HEA Reauthorization were the addition of the Unsubsidized Stafford Loan Program and the removal of loan limits for the GSL Program. The purpose of the Unsubsidized Stafford Loan Program was to make loans more accessible to students from middle-income backgrounds, while the removal of loan limits for the GSL program was designed to grant greater access to funds in response to rising costs of higher education (Lumina Foundation 2014).

According to Hannah (1996) the 1992 HEA reauthorization “authorized what is now more than three-quarters of all financial aid available to students enrolled in postsecondary education in the United States” (488). More specifically, the amendments created the Federal Direct Loan Demonstration Program as part of Part D of Title IV of the HEA. Additionally, an amendment to Part B of the HEA focused on creating Unsubsidized Stafford Loans and allowed any eligible student to have access to these loans. The limits on loans offered through the GSL program were also removed through amendments to Part B of the HEA (Congressional Research Service 1992).

By creating the Federal Direct Lending Program, the 1992 HEA Reauthorization attempted to experiment with direct lending. This shift toward direct lending placed a lesser emphasis on the role of banks in the student loan process and a greater emphasis on the role of the federal government. The Unsubsidized Stafford Loan Program created a new type of loan program targeted at expanding opportunity for middle-income students. Finally, removing the loan limits for the GSL program allowed for increased access to greater amounts of money in
response to the growing price of higher education. However, this increased access also resulted in higher debt levels amongst borrowers (Lumina Foundation 2014).

viii. Student Loan Reform Act (1993)

The Student Loan Reform Act introduced the Income-Contingent Repayment (ICR) Plan in order to respond to the increasing number of students who were having difficulty repaying their loans on the standard repayment plan of fixed payments for ten years. The hope behind implementing the ICR Plan was that if people were able to repay their loans in an income-driven process, then they would be less likely to go into default. Only those who borrowed under the direct lending program were eligible for the ICR Plan, and the provisions of this plan stated that borrowers could pay the lesser of two options: twenty percent of discretionary income or a twelve-year fixed plan (Lumina Foundation 2014).

As Gladieux (1995) describes, the purpose of the Student Loan Reform Act was to “[alter] the way student loans are financed, originated, serviced, and repaid” (48). All three titles of the act contain the provisions that amend the Higher Education Act to allow for Federal Direct Student Loans to be repaid an income-contingent basis (Congressional Research Service 1993).

By allowing students to repay their loans on an income-driven plan, the Student Loan Reform Act provided borrowers with greater flexibility in terms of repayment. It also created a situation in which those making repayments were less likely to default since they had this greater flexibility and their repayments were determined to an extent by their income at the time. In only permitting direct lenders to participate in the ICR Plan, the Student Loan Reform Act made direct lending more appealing and also added some complexity -- one type of loan program had a repayment option that other federal aid programs did not.

The College Cost Reduction and Access Act (CCRAA) created a new type of income-driven loan repayment plan known as the Income-Based Repayment (IBR) Plan. Since the ICR Plan established by the Student Loan Reform Act was limited to direct lending, the IBR Plan was designed to provide similar flexibility to borrowers under all federal loan programs with the exception of those borrowing under the Parent PLUS Program (Lumina Foundation 2014).

Packer (2008) notes that as a result of the high level of students who lacked the ability to go to college post-high school due to financial constraints, Congress passed the CCRAA in an attempt to relieve this type of economic barrier to higher education (221). Title II of the bill created the IBR Plan and addresses other income contingent considerations (Congressional Research Service 2007). These efforts aim to remove economic hurdles to a college education for high school students by providing them with a form of protection in the case that they borrow and cannot repay their loans on a standard repayment plan upon graduating.

At the time, policymakers believed that trying to combine IBR with ICR was too complicated, so the CCRAA oversaw the addition of a second income-driven repayment plan. The addition of the IBR Plan also resulted in a new repayment formula. Rather than the lesser of twenty percent of discretionary income or a twelve year fixed plan, the IBR Plan set payments at fifteen percent of discretionary income. So, the CCRAA further pushed repayment in an income-driven direction, but it also added some complication in establishing a new plan only applicable to certain loan programs with its own repayment formula (Lumina Foundation 2014).

x. Health Care and Education Reconciliation Act (HCERA) (2010)

The Health Care and Education Reconciliation Act (HCERA) sought to improve the state of income based repayment. Under this legislation, IBR terms were revised. The new terms
stated that payments would be capped at ten percent of discretionary income and that loans would be forgiven after twenty years. In addition to revising the IBR Plan, the HCERA also created another plan known as the Pay As You Earn (PAYE) Plan. This had the same terms as the revised IBR Plan but added a third option for student borrowers (Lumina Foundation 2014).

Title II, Part II of the HCERA addresses student loan issues and provides the necessary changes to address these issues. In term of income based repayment, the provisions that attempt to improve existing options by allowing those who borrowed starting in 2014 to repay annual income-based repayments of 10% rather than 15%, as well as requiring loan forgiveness to occur after twenty instead of twenty-five years (Congressional Research Service 2010).

The new IBR terms established by the HCERA capped payments at a lower level and allowed for loan forgiveness to occur at an earlier point in time. Additionally, the HCERA added a new income based repayment plan to the already existing options with the addition of PAYE. The addition of PAYE continued to push repayment further into an income based direction. The new plan provided greater flexibility for borrowers looking to explore multiple options, but it also added potential confusion if a student borrower did not understand the terms of each plan and which option would be most beneficial to him or her.

xi. Analysis

A common theme throughout the case studies is the idea that the path the federal financial aid system in the United States took to arrive to the system as we know it today was not always deliberate. Those interviewed in the documentary who were involved in the policy decisions highlighted acknowledge that certain effects on the higher education system were not realized or intended at the time of implementation. In order to better understand why these unintended consequences were not seen, I ask of each policy: what caused the effect(s) that
policymakers did not see coming? The answers to this question serve as my code from which I analyze which causes seem to repeat across these policies that resulted in unintended consequences. Repeat causes across different cases help answer the first question that this research poses: how can unintended consequences created by higher education finance policy serve as lens from which political scientists can better understand the impact that certain types of policy can have in this arena?

The three causes of unintended consequences that reappeared the most over this set of ten cases were policy that resulted in 1) an expansion of financial aid program options for students and their families 2) a change in student eligibility for one or multiple financial aid programs and 3) an alteration to the terms that a student must adhere to after receiving the financial aid.

Expansion of financial aid programs

Although the U.S. financial aid system started off small, the number of different programs proliferated in subsequent years. For example, the NDEA established one financial aid program, the NDSL, with the specific intent to assist students looking to study science or engineering. Then, the Higher Education Act created a national scholarship program that was needs based as well as a national loan program that was more focused on middle-income students. While President Lyndon Johnson’s intent with the HEA was to expand access to higher education for lower-income groups through a scholarship, the legislation that passed included a loan program, bringing not just one, but two financial aid programs to the fore. Financial institutions were not very supportive of the national loan program, but they did not want the federal government to be the body that offered the loans. So what resulted from the creation of the loan program was a public-private partnership between the federal government and banks to offer loans, which added unforeseen complexity to the financial aid system.
Additionally, adding new forms of financial aid programs was not the only way that financial aid expansion caused unintended consequences. Increasing the number of different providers had a similar effect. Under the NDSL, the federal government distributed funds to schools that then provided the loans to students. Then, the HEA added banks as a relevant actor through the GSL Program, as they became the group that lent money to students while the federal government just guaranteed them. The addition of banks in the student loan space created a complicated public-private partnership as noted above, but not only in the way that establishing a loan program on top of a scholarship program created a bifurcated system. In bringing in banks as a loan provider, the GSL added a new stakeholder in the financial aid system. By the time that the HEA reached its 1992 reauthorization, the federal government would reemerge as a group who provided loans via direct lending. Through creation of direct lending, the federal government became another relevant stakeholder in terms of student lending. The additional stakeholders playing a role in the financial aid system likely added clutter in terms of whose interests sparked confusion for students who were responsible for understanding the role each actor played in options offered.

Even within already established forms of financial aid, policy over the years added more options for students. Most recently, the development of alternative forms of loan repayment has occurred in order to combat high levels of default amongst borrowers. While these income-based repayment plans have provided those who have taken out loans with greater flexibility toward how they pay back their loans, the increasing number of plans have also added unnecessary intricacy to the student loan system. The Student Loan Reform Act of 1993 created the first alternate plan, the Income-Contingent Repayment (ICR) Plan. Rather than altering the ICR Plan to better align with new goals, the College Cost Reduction and Access Act (CCRAA) established
the Income-Based Repayment (IBR) Plan in addition to the ICR Plan. In 2007, the Health Care and Education Reconciliation Act (HCERA) added the Pay As You Earn (PAYE) Plan to these two existing income-driven repayment plans. Those interviewed in Chapter 1 of *Looking Back to Look Forward* express the sentiment that there was little to no reason that multiple alternate repayment programs needed to be created (Lumina Foundation 2014). In fact, they believe that the multiple plans make choosing an alternate plan difficult for borrowers, as many do not understand the differences between plans or which one is best for them.

**Changing financial aid eligibility**

The second type of policy that most prevalently caused unintended consequences amongst the set of ten case studies was changing student eligibility for financial aid. Policy changed student eligibility for financial aid over the years in a number of different ways. Some policies expanded or limited who was eligible for an aid program (i.e. undergraduate students, graduate students, parents, etc.) Others changed the role that income played in whether or not a student was eligible for a program, while another important set of changes altered how much financial assistance a student was able to receive.

While the original financial aid programs set up through the NDSL and the scholarship portion of the HEA were aimed at providing assistance to underserved groups, the GSL portion of the HEA as well as the Middle Income Student Assistance Act (MISAA) expanded financial aid eligibility to middle-income students. In providing loans to middle-income students in addition to the original underserved groups, loan volume and GSL program administrative costs increased in an unforeseen way. The PLUS Program set up through the 1980 HEA Reauthorization permitted parents to borrow in order to supplement whatever aid their student was receiving in order to meet the full cost of tuition. Since parent borrowing under the PLUS
Program was not capped, expanding loan eligibility to parents resulted in an exacerbated volume increase that would set the stage for default challenges faced in the latter half of the 1980s.

Another way that policy impacted student eligibility for financial aid was by changing the way that income played a role in who was eligible for financial aid programs. For example, the original GSL Program established by the HEA had an income requirement that limited the demographic eligible to borrow. However, MISAA removed this income requirement in an effort to allow middle-income students to take out loans as well. As mentioned previously, providing financial aid eligibility to a new group through MISAA increased volume of borrowing on an unpredicted level. However, MISAA did more than just provide one new group with the ability to borrow. By removing the income requirement for student lending, MISAA dismantled a major barrier to entry that limited those who did not meet that requirement from borrowing. What resulted was a non-restrictive GSL Program, meaning that anyone who under prior income requirement was unable to borrow could now receive a loan if he or she wanted to.

Policy contained in the case studies also altered student eligibility for financial aid by changing how much assistance a student was able to receive under a given program. Originally, the PLUS Program part of the 1980 HEA Reauthorization capped parents in how much they could borrow in loans to supplement their student’s financial aid, but throughout the legislative process, these caps were removed. Removing the caps allowed parents to take out whatever volume of loans they needed to meet the full cost of tuition. Since the high level of loan volume that higher education students took on around this time began to cause default issues, the HEA Reauthorization Act of 1986 restricted how much financial aid one could receive, as those who went into default were ineligible for further financial assistance. The 1992 HEA Reauthorization would return to the issue of loan limits, this time for the GSL Program. Caps on borrowing were
removed from the GSL Program in order to respond to the growing demand for loans in the context of skyrocketing tuition prices in higher education. While removing these caps was designed to increase access to higher education opportunities, the unlimited borrowing power under the program caused debt levels to rise.

**Altering terms of financial aid agreement**

The third identified facet of policy that caused unintended consequences across the cases studied was the altering of terms that a student who participates in a financial aid program must adhere to. When students receive a loan, they agree to pay back the money borrowed plus interest in a certain type of plan depending on the situation. If they default on their repayment, they agree to face a certain set of consequences. There is also loan forgiveness that can occur depending on the program after a certain number of years given that a borrower meets a determined set of provisions.

In response to the increasing number of students who had issues repaying their loans after graduation for a host of different reasons, the 1992 HEA Reauthorization provided more lenient and workable repayment programs for borrowers. This effort provided greater flexibility to students struggling to repay their loans under the standard plan, and it also set in motion a push for more robust alternate repayment programs. The 1993 Student Loan Reform Act established Income-Contingent Repayment (ICR), which allowed for borrowers to make payments on their loans in a way that was adjusted to their level of income. By making payments driven by income, the goal of the ICR Plan was to reduce default. From the ICR Plan came the IBR Plan and PAYE in the CCRAA and HCERA, respectively. These repayment plans similarly aimed to reduce the heavy burden some faced under standard repayment plans, but each of the various alternate plans that developed had its own specific terms and changed the way that borrowers would undergo
repayment by those terms. Although these alternate plans were aimed at assisting students with repayment, adding a number of different types of plans each with its own provisions made it difficult for those entering a new loan to predict what type of repayment options would be available to them and understand how to navigate those options.

Changes to how default was handled and specific terms of loan forgiveness also occurred over the policies presented in Chapter 1 of *Looking Back to Look Forward*. For example, multiple provisions of the 1986 HEA Reauthorization were aimed at fixing problems associated with default. In preventing students who defaulted on their loans from accessing further financial aid, the 1986 reauthorization created greater incentive for borrowers to adhere to the repayment terms of their loan. However, this provision also may have prevented high achieving students who were unsure about their outcomes post-higher education from participating in financial aid programs out of fear that they may be penalized retroactively. More recent policies have implemented loan forgiveness in order to help combat default as well. The idea that after a certain period of time with an outstanding loan balance a student’s debt could be dismissed was implemented as part of the IBR Plan in the CCRAA. The HCERA then decreased the amount of years needed for a loan to be forgiven. While the idea of loan forgiveness was helpful with default levels, the different ways that programs implemented forgiveness in terms of what type of debt could be forgiven and how many years were needed in order to be eligible may have led to confusion amongst students about how loan forgiveness worked.

Upon examining the ten cases presented in Chapter One of *Looking Back to Look Forward* a number of common themes emerge that can be useful in trying to understand why the policies highlighted resulted in unintended consequences in the higher education system. Based on an analysis of the case studies presented in this section, it appears that there is indeed a set of
characteristics present in higher education finance policy that can cause unintended consequences for the system as a whole. These causes serve as a theory that will be used to test whether or not the set of repeated components of past policy can be applied to the proposed income-share agreement legislation and the policymaking progress in general. In order to perform this test, the next section will present the interview portion of this research, which seeks to gain further perspective on this theory by drawing from the knowledge of experts who had a role in creating the proposed income-share agreement legislation pending in Congress.

B. Interviews with Higher Education Experts

i. Framework

In order to test the theory I deduced from the case studies that certain types of policy in the higher education financing space are most likely to result in unintended consequences against a current case, I conducted a series of interviews. There are currently two bills proposed in Congress -- H.R. 3145, the ISA Act of 2017, and S. 268, the Investing in Student Success Act of 2017 -- aimed at creating federal legislation regulating income-share agreements. Since I ultimately was interested in understanding if the unintended consequences lens could generate new knowledge about income-share agreements, I chose to test my theory against this proposed legislation by speaking with people who have played a role in the policymaking process related to these bills.

First, before beginning the interview process for those involved in the current ISA legislation, I wanted to test the validity of my theory as concluded from just the case studies before attempting to apply it to the proposed bills. I did this by presenting the theory to the creator of the Lumina Foundation’s documentary, *Looking Back to Look Forward: A History of Federal Student Aid*. After speaking with the film’s creator (Interview #1), I then contacted the
Congressional offices who originally sponsored the House and Senate ISA bills, Representatives Luke Messer (R-IN-6) and Jared Polis (D-CO-2) on the House side and Senators Todd Young (R-IN) and Marco Rubio (R-FL) on the Senate side. Finally, I reached out to ISA experts from academia and the industry who I knew to have played a role in drafting the proposed legislation.

I was able to interview one Congressional staffer (Interview #2) and one industry representative (Interview #3) to test the theory created by my case studies and supported by Looking Back to Look Forward’s creator. The Congressional staffer I spoke with wrote H.R. 3145, the ISA Act of 2017, and the industry representative is the CEO of a reputable ISA company who was involved in discussions that led to the legislation proposed in Congress. Unfortunately, I was unable to speak with all identified Congressional offices or an academic expert due to office policy and unavailability.

Each of the individuals interviewed were asked a couple questions specific to their background and expertise as well as three standard questions used to test the theory developed from the case studies. These questions were: 1) do you think that policy that expands student options for financial aid (i.e. more programs, more providers, more options within program) is more likely to result in unintended consequences? 2) do you think that policy that changes student eligibility for already existing financial aid programs (i.e. type of student, income requirement, borrowing limit) is more likely to result in unintended consequences? 3) do you think that policy that changes the terms a student participating in a financial aid program must adhere to (i.e. repayment, default, loan forgiveness terms) is more likely to result in unintended consequences? Whether or not the person believed the type of policies included within each question was considered in the policymaking process that led to the proposed ISA legislation was asked in follow-up; this will be discussed at further length in the paper’s conclusion.
ii. Findings & Analysis

Generally, the interviewees’ responses indicated that the theory created from the case studies identified policy that can lead to unintended consequences in the higher education financing system. However, respondents expressed hesitancy to say that type of policy definitely would result in unintended consequences. Another important finding to note was that since the theory was developed from a case study on federal student aid and that income-share agreements are a form of private student aid, the type of policy indicated may not be entirely applicable to the current proposed ISA bills.

For the first question that explores whether expanding financial aid programs causes unintended consequences, all three interviewees expressed affirmation. Common in their responses was the idea that adding more choices for students seeking financial aid can result in unintended confusion, which was a result seen in the case studies. The Congressional staffer firmly believes that much of the unintended consequences for federal financial aid programs has resulted from students not understanding the full terms of their programs. The ISA company CEO echoed this sentiment, adding that providing more choice can make understanding all the options and what they mean difficult for students. He believes that this can result in a situation in which a student does not know which option is best for him or her and thus makes a poorly informed decision to pursue a financial aid program that is not necessarily in his or her best interest.

The documentary creator also noted that expanding financial aid programs can result in unintended consequences because offering more options and programs has the possibility to attract more students, which expands the pool of people receiving financial aid. When more people are receiving financial aid, there is greater diversity in situations and outcomes, so it is
difficult to predict how everyone will fare in the higher education system and beyond. A diverse pool with a variance in outcomes is inherently more difficult to create good policy for than a more homogenous group, which can result in unintended consequences if certain situations that arise were not or could not have been realized beforehand. This interviewee also provided another explanation for how expanding financial aid options can result in unforeseen situations; when a new program is created, it is not always clear how well the program will work in practice, and if it does not work well, it may not last. In the case that a program does not last, whatever changes made to adjust for the early termination of the program can cause complications for the greater higher education system. He cites the addition of loan programs such as Parent PLUS or Grad PLUS as evidence behind this. When these programs were added, the federal government subsidized private lenders to participate in them. However, when the subsidies stopped, the private loans also stopped and direct lending had to be put into place.

These discussion provided by the documentary creator may be relevant to the proposed ISA literature in that another financial aid program can bring new people into the financial aid system, and since it is not yet clear what type of students would make use of ISAs on a largely implemented scale, creating policy that accommodates to the demographic may be challenging. Also, although the ISA model is currently being used by a number of different companies who offer the contracts, it is not clear how ISAs would be implemented on a large scale within the context of a federally regulated system in the case that legislation passes. If things in this context did not function well, ISAs could be scaled back, and this policy reversal could cause complication similar to the way the unforeseen switch to direct lending did for Parent and Grad PLUS.
The documentary creator believes that unintended consequences can result from changing the eligibility requirements for an already existing financial aid program for partially the same reason they can develop when creating new options for students. When definitions guiding the characteristics that students must meet to be eligible for a program change, he notes that this can alter the pool of students within the financial aid system just as adding new programs does. Adding new students by making eligibility less restrictive or setting standards that incentivize certain groups to participate in programs can expand access in an unforeseen way if the policy does not accommodate for whatever change may occur. The ISA company CEO also believes that changing eligibility can result in unintended consequences and notes the difficulty inherent in creating policy that specifically defines who is eligible for a program but is also broad enough to be accepted by all relevant parties.

The Congressional staffer also echoed the sentiment that changing student eligibility for a financial aid program could result in unintended consequences, but he is not confident that it is a consideration that plays a role in ISA legislation. He explained that an ISA is a contract between a student and lender, eligibility does not play the same role that it does when the federal government is overseeing a program. When the federal government offers a program, it can determine who is eligible for the program and what the program will provide. This can change over time, but with a contract offered by a private agency, the federal government is limited in how it can influence eligibility, as the contract is an agreement between the student and lender.

For the last question that considers whether changing a financial aid program’s terms after a student has already agreed to receive the aid, responses amongst the three interviewees were a bit more divergent than they were for the first two questions. The three interviewees did agree that in the most general sense of the idea that changing key factors of an aid program such
as how repayment is made could result in unintended consequences. However, in actuality and as applied to ISAs, their responses varied a bit. The documentary creator said that although changing repayment terms could have unforeseen results, he does not believe that this part of the theory has as much of a role in causing unintended consequences, especially as applied to income-share agreements. He mentioned that changing a program’s terms does not bring more people into the pool and increase risk as the above two types of policy do and that the repayment terms of an ISA are potentially even clearer than those that drive federal programs.

Similarly, the Congressional staffer notes that the type of policy implicit in the third question is not very relevant as applied to ISAs because they are provided by a private company and not the federal government. Since this is the case, the government does not have the ability to change the terms agreed upon between a student and the company in the ISA contract. He notes that since in the proposed ISA legislation there is a proposed minimum income threshold that a graduate must meet or else he is not required to make payments. If Congress were to make a change to this minimum threshold, then there could be some unintended consequences. However, he argues that those who entered an ISA contract prior to the change would likely be grandfathered into the old terms, so the likelihood that those consequences occurred would be low. On the other hand, the ISA company CEO was confident in responding that policy that changes the terms of a financial aid program after a student participates in the program can result in unintended consequences. He shared that he also believes that changing a program’s terms through policy after the fact could also have a good impact if unintended consequences resulted from the original terms and needed to be adjusted to mitigate those effects.

In comparison of theory developed from case studies with the knowledge of higher education finance experts working on ISAs, the theory in its most general sense was confirmed.
As a group, all three interviewees believed that the policy types identified as part of the theory have the ability to cause unintended consequences. However, the three experts differed in which types they felt had the strongest ability to lead to unintended consequences and how large of a role each can play when they are applied across different spaces across the higher education finance policy arena. Since responses indicated that the policy types that made up the theory aimed at predicting unintended consequences only *could lead* to unintended consequences, as opposed *always caused* unanticipated results, and opinions between the three interviewees on these policies ranged, this test does not validate the theory. However, it also does not invalidate it, which is something I will return to in the conclusion.

The findings developed from comparing the interview evidence with the case study theory were not particularly enlightening due to the inability to determine if any of the identified policy types definitively cause unintended consequences and variance in response between the interviewees. On the other hand, the application of theory to the income-share agreement legislative space sheds interesting perspective on the space and the role unintended consequences appear to play in it. First, in attempting to apply theory to income-share agreement policy, I realized the limited role that qualitative research is able to play at this time. This type of research depends on tools such as interviews and surveys that rely on the commitment of people, and federal ISA policy is a developing issue that those involved with cannot always share information about. Thus, gathering evidence here through qualitative means can be difficult, particularly in the case that a Congressional office bars its staff from participating in outside research or comment on internal ongoing policy deliberations. Additionally, although developing ISA policy appears to be a good place to study the role of unintended consequences in higher education finance in a particularly well-timed and interesting case, information gathered during
interviews indicate that this may not be entirely true. Respondents noted that income-share agreements are a novel higher education finance tool and the developing nature of its policy allows for the unintended consequence lens to potentially predict effects in this space. However, they pointed out that traditional federal financial aid programs are fundamentally different from ISAs in the role that the government versus the private sector plays in each. In the policies examined in the case study section, the government had a strong hand in all the relevant financial aid programs and thus could heavily shape direction. Conversely, for ISAs, the government has comparatively little ability to intervene, as an ISA is a contract between a student and private lender. This fundamental difference between how traditional programs are modeled versus an ISA begs the question of whether or not findings from past case studies can be applied to the ISA landscape and potential policy.
VI. Conclusion

To conclude, I discuss how the findings from this paper’s case study and interview portions answer my research questions generally and then apply these conclusions to the current federal ISA legislation that has been proposed. Through these efforts, I seek to communicate how this study adds knowledge to both the existing state of income-share agreements and the role of unintended consequences in policy process. As mentioned in the section on scholarly work to date, there is a lack in the income-share agreement literature that aims to connect past policy with the current state of ISAs and already drafted legislation; additionally, a hole exists in unintended consequences work as applied to the higher education arena and more recent policy cases.

In combining the information gathered from the interviews of higher education experts working in the ISA space with the theory developed through the case studies, a fuller picture emerges that can be used to answer this paper’s core questions. First, in analyzing each case’s purpose and effects, a set of common policy themes that can lead to unintended consequences in higher education develops. Policy that expands financial aid programs for higher education students, changes student eligibility for existing programs, or alters the terms a student must abide by after entering a program all have the ability to create unintended consequences in ways that have already been described. However, it is important to note that the evidence gathered through this study does not support the claim that any of these policy types can be used to predict with certainty if unintended consequences will develop. As noted in the introduction, public policy is a very complex field. Prior scholars have identified that it is difficult to predict outcomes in this field, even when given all relevant information. The inability of higher
education experts to validate the predictive nature of a theory developed from the rather comprehensive case study presented in this study illustrates this point.

Although a comparison of theory developed from cases with evidence gathered through interviews does not indicate that a certain theme can be used with certainty to predict whether or not a policy will result in unintended consequences, this does not mean that the findings of this study are meaningless. As noted in discussions with the interviewees, the types of policy identified in the case study’s theory have created unintended consequences on numerous occasions in the past and thus have the ability to have the same effect in the future. So, rather than using the theory as a predictive measure, it can be used as a set of considerations for policymakers to discuss when crafting legislation in the higher education space. Higher education experts may be unable to say that adding more financial aid programs to the higher education system will always result in unintended consequences, but legislators can make note of the fact that adding a new financial aid program has caused unforeseen results in the past and as a result keep this in mind for the future. With this consideration in mind, policymakers can use this knowledge to guide a policymaking process that results in the achievement of whatever goal they are trying to meet through policy as well as does not allow for identified problems from the past to reoccur in the future. For example, in the case of creating a new financial aid program, the understanding that adding new programs has created complexity within the higher education system and confusion for students seeking aid can help policymakers establish a new program that is carefully established, strongly administered, and clearly communicated so as to prevent this complexity and confusion.

This consideration in particular is relevant to how the findings of this study shed light on the income-share agreement space and proposed policy surrounding it. Establishing a federal
framework for ISAs would add yet another option for higher education students seeking financial aid. From the study’s identified theory, this means that there is a potential for unintended consequences to result. So have policy entrepreneurs working to develop ISA policy considered this? Responses from the interviewees indicate that they have. The ISA company CEO expressed concern over adding another choice for students, noting that this action has the ability to confuse students about what their options are and what they mean. Furthermore, the Congressional staffer noted that in the federal financial aid system, unintended consequences tend to develop when students do not understand the full terms of a program.

Those involved with the current ISA policy in Congress are faced with a tradeoff, which returns this discussion to the policy theory I touched upon in the introduction. Based on interview responses, this group clearly understands that there are issues within the higher education system, including those discussed earlier, and they believe that ISAs have an ability to solve some of these issues. Since they believe that ISAs have this ability but need a federal framework to operate within in order to fulfill this ability to a full potential, policy leaders want to pass legislation. These same policy leaders are likely frustrated with the status of these efforts; attempts prior to this Congress failed to come to fruition, and current endeavors have stalled. At an event at the Wharton School of the University of Pennsylvania in February 2018, panelists suggested that although there is bipartisan support on the proposed ISA bills, Republicans are leading the efforts, and some on both sides of the aisle are reluctant to back the cause out of a desire to see more data that supports the benefits of ISAs. However, this situation leads to a bit of a paradox, as it is difficult for firms to offer ISAs on a scale that would allow for more data and to gather evidence on student outcomes without a clear regulatory framework in place.
This lack of progress and frustration over an impasse has the ability to promote efforts by the pro-ISA policy group to push their proposed legislation through with little regard for other considerations. This is dangerous, especially in the context of the current problems within the higher education finance system and the role this study has seen that unintended consequences have played historically. If those who back ISA legislation have a goal of passing their bill, it is easy for them to neglect to consider the role that unintended consequences have played in past policies during the current policymaking process. These considerations require identifying policy that has led to unanticipated results, understanding why the results occurred, and determining how the current legislation can be crafted to avoid those same effects. All of that takes time and effort, and as we know, time dedicated to one set of efforts slows down momentum elsewhere, deterring from actors’ ability to push legislation forward in this case.

These barriers to progress that ISA policy entrepreneurs face can impede their ability to embrace lessons learned from past policies. As stated in Kemp and Weehuzien, an important obstacle to policy learning is aversion to failure (2005, 19). In other words, policymakers can be reluctant to take what those in the past have learned about policy process and outcomes if they believe that adopting this mindset could put their efforts to pass desired legislation at risk. With the constraints that those who want to pass ISA policy face laid out and this theoretical observation presented, a consideration extremely relevant to this thesis emerges.

Engaging in a policymaking process that recognizes weaknesses of higher education finance policy identified through the lens of unintended consequences exhibits the idea of policy learning. Policy learning is useful because it allows policymakers to adopt lessons of best and worst practices identified by those who came before them in order to ideally make the policymaking process more efficient. However, obstacles to policy learning exist. ISA policy
entrepreneurs face these obstacles, just as those responsible for higher education finance policy have struggled with before them. The Lumina Foundation’s documentary and this thesis’ case study illustrate the fact that over the course of the history of the federal financial aid system policymakers have fallen victim to barriers that have prevented them from learning in the context of unintended consequences. So, will those responsible for ISA policy follow in the same footsteps as those before them, or will this be the case in which policymakers in the higher education finance arena embrace the ability to learn from the failures of policies before them? It all depends on the current ISA coalition’s ability to overcome the current obstacles to policy learning that exist, as well as their response to whatever new hurdles may develop in the future.
VII. Bibliography


https://www2.ed.gov/offices/OPE/PPI/FinPostSecEd/gladieux.html.


