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For-profit education shorts: 0, Lobbyists: 1

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By [Tory Newmyer](#), writer February 23, 2011: 11:30 AM ET

FORTUNE -- Steve Eisman, the short-seller who put himself on the map during the credit crisis, may have suffered a major setback in his campaign against for-profit higher education last week when the House voted resoundingly to strip funding for tough new regulations on the industry.

Or did he?

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The debate over the restrictions is entangled in a much bigger, nastier fight between the parties about how to fund the federal government. As the scrap lurched into this Congressional recess week, the fate of the entire package, and all its component parts, remained very much in doubt.

Shares of top for-profit education companies -- the Washington Post Co. (**WPO**, **Fortune 500**)'s Kaplan College, Corinthian Colleges (**COCO**), the Career Education Corp (**CECO**), and Apollo Group (**APOL**), which owns the University of Phoenix -- jumped on Friday afternoon after 57 Democrats joined

232 Republicans in voting to block the administration from cracking down on the schools. But while the comfortable vote margin cheered the small army of lobbyists the industry has assembled to defend itself, they acknowledged the measure's prospects in coming negotiations with the Democratic-controlled Senate are far from assured.

The fight is playing out against the **threat of a government shutdown** if the parties can't forge a compromise on spending levels by March 4, when current funding expires. To that end, the debate is largely between fiscal restraint and policy priorities: in crafting their plan, House Republicans slashed more than \$61 billion from current spending levels -- cuts Democrats condemned as draconian. But the dispute is also quietly shaping up as a staging ground for a partisan clash over business regulations.

House Republicans intensified the brinkmanship last week by packing their version of the spending extension with challenges to the administration's plans to crack down on a range of industries. Beyond

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moving to shield the for-profit higher education sector, House Republicans added riders blocking the Environmental Protection Agency from regulating greenhouse gas emissions; defunding a public database that would track injury reports in children's products; prohibiting the Federal Communications Commission from imposing net neutrality rules on Internet service providers; and banning new environmental restrictions on mining near streams, among others. And the House adopted nine separate Republican amendments seeking to hamstring President Obama's health care overhaul.

How many of the provisions targeting executive branch rulemaking will actually survive in negotiations with the Senate is an open question. One senior Democratic aide likened the House to a tennis ball machine gone haywire: the chamber served up so many amendments so quickly that overwhelmed Senate Democrats might let some slip through. But in a conference call with reporters on Tuesday, Senate Majority Leader Harry Reid (D-Nev.) categorically declared the provisions non-starters. "How do they expect us to agree to any of that? We're not going to," he said, adding the bill's purpose is "funding for our government, not all these other goodies they think are cute at this time."

And House Republicans privately acknowledge they need to keep the debate focused on fiscal austerity in the coming talks. "The recognition is that the fight is about spending levels," one senior GOP aide said. "There are other days and other times to have fights on other legislative issues."

Shorts vs. lobbyists

That doesn't mean the for-profit higher education industry isn't trying to press their case in the Senate. The sector relies heavily on government-backed student loans. Its students receive about a quarter of them, while representing half that percentage of the total college population. But government studies have shown those students are often left with crushing debt burdens and meager job prospects after graduating, leading them to default on their student loans at much higher rates. (See [Short-sellers get snagged in education litigation](#))

The proposed rule would scrap financial aid at schools whose students fail to meet repayment benchmarks -- a very serious threat to some, and an alluring possibility for an investor looking to short the industry.

Eisman reportedly has been [considering leaving FrontPoint Partners](#), the hedge fund where he works, to start his own shop. A FrontPoint spokesman confirmed Eisman is still with the company, but declined to comment either on his plans or whether the company maintains short positions on for-profit schools.

Regardless, the investor who made a mint predicting the housing collapse -- then gained national renown for it in Michael Lewis' *The Big Short* -- has been a critical force driving the debate on for-profit schools. Eisman has been tilting against the industry since the last spring, pressing his case in a meeting with senior Department of Education officials, in testimony before the Senate Health, Education, Labor, and Pensions Committee, and other forums.

An array of consumer and student groups have also weighed in with policymakers, urging tougher regulations on for-profit schools. But the margin of the House vote suggests a more traditional mode of exerting influence in Washington still carries the day, at least in some quarters. Last year, the largest for-profit players more than doubled their lobbying spending over the year before, from \$2.4 million in 2009 to \$5.6 million in 2010. The money helped the industry hire a bevy of high-powered former lawmakers and top-ranked former staff, including former House Majority Leader Richard Gephardt (D-Mo.).

"It's a clear case of what corporate lobbyists can achieve if they go

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unchecked," said Lindsay McCluskey, president of the United States Students Association, which is lobbying for the tougher rules. "Hopefully we can fight this in the Senate, but this is a David and Goliath dynamic for students." ■

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