

# Federal Policy Update



**September 26, 2018**

**Thomas L. Harnisch**

**Director of State Relations and Policy Analysis**

**American Association of State Colleges and Universities**

# About AASCU

- **370 presidents/chancellors of public universities & systems**
- **Emphasis: undergraduate education, college access, student success, institutional leadership**
- **Federal lobbying and federal/state/institutional policy leadership**
  - **Only D.C. higher ed association with state policy focus in addition to federal focus**
- **Leadership/professional programming for CEOs, CAOs, Government Relations, Communications, International Affairs**

# Key Policy Issues

- **Appropriations**
- **HEA Reauthorization/Other Bills**
- **Regulatory Changes**
- **Immigration and International Students**
- **Tax Bill**
- **Other issues**

# Appropriations

- **House and Senate have reached a deal on federal spending. Deadline is September 30. President Trump veto and shutdown possible but unlikely.**
- **Federal funding for most programs will be largely unchanged from existing levels**
- **Dept of Ed=\$581 million increase to \$71.5 billion**
- **Pell Grant maximum to increase by \$100 to \$6,195**
- **\$70 million boost for career & tech ed, currently at \$1.3 billion**

# Higher Education Act Reauthorization

- Was due to be reauthorized in 2013
- GOP-led House passed a bill out of committee (PROSPER Act) on party-line vote but bill does not have enough support on the House floor
- PROSPER Act is opposed by the vast majority of the higher education community
- Senate has yet to introduce a bill, unlikely to see movement until 2019



# PROSPER Act

- Eliminates in-school interest subsidy
- Ends SEOG
- Repeals Obama-era consumer protection regulations (Gainful Employment, Borrower Defense). Concerns over fraud and abuse.
- Eliminates state authorization regulations
- Ends loan forgiveness, including Public Service Loan Forgiveness
- Eliminates TEACH Grants
- Adds new regulatory burdens on institutions

***PROSPER Act is opposed by AASCU and the vast majority of other higher education associations***

# Aim Higher Act

## House Democratic Bill

Essentially the inverse the of the PROSPER Act

- Free two-year degree at public college through state-federal partnership
- Preserves SEOG
- Keeps Obama-era consumer safeguards
- Maintains the TEACH Grants
- Strengthens college access programs
- Allows DREAMERs access to financial aid



# Free College

**“Debt-Free College Act of 2018” authored by Sen. Brian Schatz (D-HI). 23 House and 9 Senate cosponsors**

- Establishes state-federal partnership through block grants to the states, with the goals of providing debt-free college for low-income students and making progress on affordability for other students, boosting state investments in higher ed, maintaining access, increase completion and quality, and maintain or cut costs for public higher ed and price charged to students
- **State Responsibilities:**
  - Maintain access for low-income students
  - Cap tuition and fees at current levels, adjust for CPI
  - Cut tuition and fees as appropriations increase
  - Maintain need-based aid
  - Maintain state funding for institutions
  - Strengthen statewide transfer of credit
  - Improve communications





# Regulations

- **Gainful Employment**
- **Borrower Defense to Repayment**
- **Title IX**
- **Upcoming “wide-ranging” rulemaking session**
- **State Authorization**

# Gainful Employment

- **Obama-era rule directed at holding colleges---mostly for-profits---accountable for producing graduates with debt they can't repay**
- **Rule went into effect in 2014**
- **Sec. DeVos plans to repeal the regulation and replace it with expanded program-level data in the College Scorecard. No punishment for low-performing institutions.**
- **Comment period ended September 13<sup>th</sup>**
- **Rule expected to be eliminated on July 1, 2019**
- **Effort to rescind Gainful Employment opposed by the major higher education associations**
- **GOP leaders in Congress support the rescission**

# Borrower Defense to Repayment

- **Obama-era rule that loans could be discharged if institution misled you or engaged in misconduct**
- **165,000 claims, nearly all from for-profit sector**
- **Sec. DeVos decided to delay the rules on borrower defense, wants to rewrite the rule. Attempted delayed until July 1, 2019.**
- **DeVos delay sued by consumer groups and some AGs. Judge ruled the delay was unlawful, currently discussing remedies.**
- **DeVos rewrite would make it more difficult to discharge the loans**

# Title IX

- **DeVos removed Obama-era guidance on Title IX, put in interim guidance in 2018**
- **DeVos has planned to put in regulations in place of the guidance, first regulations issued under Title IX**
- **A version of the proposed rules appeared in the NY Times in late August**
- **The DeVos rules would strengthen the rights of the accused**
- **Highlights and Key Changes**
  - **Complaints have to go through formal channels**
  - **Narrower definition of sexual harassment, only hold universities accountable for incidents on campus**
  - **Colleges could choose to use a higher standard of proof (“clear and convincing”) than the Obama-era guidance (“preponderance of evidence”)**
  - **Office of Civil Rights would use a higher legal standard to assess whether a college violated Title IX**

**Source: *NYTimes, Chronicle of Higher Education***

# State authorization

- **Were supposed to have been implemented on July 1, 2018**
- **Department will delay implementation of state authorization rules for 2 more years (2020)**

# State Authorization

- **“Wide-ranging rule-making session” to “rethink” higher education**
- **Regulatory changes include the following:**
  - Requirements for accrediting agencies
  - Criteria used to recognize accrediting agencies
  - Single definition re: job placement rates
  - Simplifying process for recognition and review of accrediting agencies
  - Revising state authorization requirements
  - Definition of “regular and substantive interaction”
  - Definition of the term “credit hour”
  - Barriers to innovation and competition
  - Simplification and clarification of program requirements to minimize inadvertent grant-to-loan conversions under the TEACH Act
  - Two subcommittees: Competency-based education and faith-based entities participating in Title IV

# Tax Reform

- **Some blue states are trying to get around tax reform (CT, NJ, NY, OR)**
- **Some states are experienced a windfall of revenue from the new tax law**
- **State budget are in a stronger position than in the past few years due to economic growth, tax reform, and certainty on federal spending, but spending pressures and long-term structural challenges remain**

**Source: NASBO**

# Other issues

- **Campus free speech**
  - **AG Sessions has stated that the DOJ will oppose efforts to restrict free speech on campus**
  - **Sen. Alexander does not want to legislate on campus free speech, but wants more recruitment of underrepresented viewpoints**



# Questions

**Thomas L. Harnisch**

**Director of State Relations and Policy Analysis**

**American Association of State Colleges and Universities**

**@aascupolicy**

**harnischt@aascu.org**