

Top 10 Higher Education State Policy Issues for 2015

By the AASCU State Relations and Policy Analysis Team

The mood of public higher education entering the 2015 state legislative sessions might be described as a blend of tepid optimism and restrained anxiety. The economic turbulence of the Great Recession has subsided, with dramatic state funding reductions giving way to the long slog toward funding restoration. Forecasts suggesting moderate national economic growth portend a period of stability in most states' budgets, and hence, for higher education funding.

Signs of state budget stability, however, may turn to unease when considering the number of newly-elected and re-elected governors and state legislators who have promised to scale back state budgets in order to reduce state taxes, an ideological framework which could limit the amount of revenue for public colleges and universities. With single-party control in the majority of state governments and more supermajorities in legislative chambers, there will be few checks and balances to slow these agendas in many state capitols. The potential pursuit of state budget austerity agendas in 2015 poses a legitimate threat to addressing issues of college affordability, student debt and college degree production—all of which directly tie into states' workforce and economic development capacities. The prospect of state spending retrenchment, however, also serves as an incentive for all stakeholders of public higher education to communicate the strong rate of return

and myriad other benefits of state investment in public higher education to a new class of elected officials.

States have constitutional authority over higher education, and state lawmakers, working in concert with campus governing bodies, have jurisdiction over foundational higher education policies: state funding, capital construction, enrollment policy and tuition pricing. States' role in determining the policy framework for public colleges and universities is only expected to intensify this year, as [political polarization and paralysis](#) in Congress have left a backlog of federal education bills for congressional committees to consider in the next session. Much attention will be on Congress' ability to govern effectively now that the U.S. House and Senate are both in the hands of Republicans. If Congress' success in the 114th session is assessed in comparison to the outgoing session—whether related to education or not—the threshold for success is unusually low, given that the just-concluded 113th session of Congress witnessed the lowest number of bills passed in modern Congressional history.

One of the most concrete examples of federal education policy stasis is the unlikely Congressional passage this year of the overdue reauthorization of the Higher Education Act (HEA). Among all the higher education policies and programs ripe for reform, there exists a tremendous need and opportunity for Congress to use the HEA reauthorization to [align state and federal higher education financing](#) and incentivize states to re-invest in public higher education. Recent traction in the U.S. Senate on a [proposed State-Federal College Affordability Partnership](#)—an annual federal block grant designed to spur new state investments in public higher education—will likely be slowed due to changes in Senate leadership. Public higher education leaders will be called on to work with their Congressional delegation to build awareness and

support of the State-Federal College Affordability Partnership in order to ensure that it is included in the final HEA reauthorization bill.

An in-depth discussion of potential implications for higher education policy stemming from the 2014 elections is provided in the policy brief, *Higher Education and the 2014 Elections*, published by the American Association of State Colleges and Universities (AASCU). The paper discusses the Obama administration's higher education agenda, the Congressional outlook for its 114th session, policy challenges Congress will face, as well as state-level outcomes of the elections.

This paper provides a summary of the top 10 higher education policy issues that are likely to witness considerable activity in state legislatures across the country this year. It is the view of the AASCU state relations and policy staff that these issues will be at the forefront of both discussion and action in state capitols. This eighth annual synopsis is informed by a variety of sources, including an environmental scan of outcomes from last year's legislative sessions, recent gubernatorial priorities, as well as trends and events that are shaping the higher education policy landscape. Some issues are perennial in nature, while others reflect more recent economic, fiscal and political dynamics. Results, no doubt, will vary by state.

1. Tuition Policy

Tuition policy and state government-provided operating support will generate the most state higher education policy-related activity this year. These two policy domains are so intertwined that our Top 10 list for 2014 listed them as one issue ("agreements linking state funding and tuition policy"). Tuition policy activity in the months ahead will be marked with tension involving many competing forces: calls for holding the line on tuition, maintaining academic quality, and effectively managing stagnant or declining enrollment in many states. Despite fair revenue forecasts in most states, other policy

and spending priorities may limit the number of states that can "buy out" or "buy down" tuition increases (i.e., provide enough operating money to negate or lessen the need for an increase in in-state undergraduate tuition prices). For example, state funding support in **Iowa** will ensure flat in-state undergraduate tuition prices for the third consecutive year, but the governor's budget blueprint for the upcoming fiscal year in neighboring **South Dakota** does not fund the regents' request to buy out a tuition increase.

Average published tuition and fee prices increased 2.9 percent for in-state students attending public four-year institutions from 2013-14 to 2014-15, according to the College Board's latest *Trends in College Pricing* report. While this was lower than the average annual increases in the past five, 10 and 30 years, it was still higher than the 2 percent increase in the Consumer Price Index (CPI).

Higher education leaders in many states will seek tuition increases necessary to not just pay for inflationary operational costs, but to recoup a portion of the state funding reductions that took place during and after the recession—spending cutbacks that eroded institutions' ability to keep pace with faculty and staff compensation needs, among other pressures. Despite flat per-student spending in the public higher education sector in recent years, lawmakers in some states may be hesitant to grant tuition price increases above the rate of inflation. Tuition policy in 2015 will therefore be marked by negotiations among those who set tuition prices—in most cases, state lawmakers or governing boards—and those who are accountable for advancing the missions of public colleges and universities—campus and system leaders.

2. State Appropriations for Higher Education

While the final figures have not yet been released, it is unlikely that the overall average increase in state higher education appropriations for the current fiscal year (FY 2015) will be as high as the 5.7 percent

average increase in the previous fiscal year—a year-over-year funding enhancement that in percentage terms was second only to states' Medicaid spending. The upturn was only two years removed from the largest year-over-year decline in state higher education funding in more than a half century, spurred by the post-federal stimulus “fiscal cliff.” Based on the results of an informal [survey](#) conducted by AASCU in June 2014, states provided an average 3.6 percent year-over-year increase in state operating support for public four-year colleges and universities for fiscal year 2015. The final state appropriations figures for all of higher education, when released by Illinois State University's [Grapevine](#) and the [State Higher Education Executive Officers](#), may yield a higher number.

Three traditional factors will play leading roles in determining state higher education appropriations levels for the coming budget cycle. Of greatest significance will be prevailing economic conditions and their corresponding impact on state budgets. The Congressional Budget Office (CBO) [projects](#) that the U.S. economy will expand by an average annual rate of 3.4 percent through 2016, higher than the [historical](#) growth rate of 3.2 percent.

Region-specific economic dynamics will also factor into state higher education budgets. The recent plunge in oil prices will impact revenues in states where the energy sector has an outsized presence in the state economy, such as in [Alaska](#), [Louisiana](#), [North Dakota](#) and [Texas](#). Budget conditions and forecasts vary significantly throughout the states, causing some state leaders to fill current year budget gaps, while others plan for how to use surpluses. Some of the hardest hit states in the recession, such as [California](#), [Florida](#) and [Michigan](#) are faring better than others, such as [Maryland](#) and [Virginia](#), which face significant budget shortfalls due in part to federal budget cuts.

Cost growth in other state programs will be a second factor determining state higher education funding

levels. Medicaid, K-12 education, and corrections, which often provide lawmakers little discretion in their budgetary allocations, are expected to need more tax revenue in the coming years. The same holds true for public employee pension programs, which for a variety of reasons have proven to be a fiscal albatross around some states and have redirected funding away from other state budget items.

A third influence involves how politics will shape state policy priorities in 2015, as most states had gains in conservative power as of result of the 2014 midterm elections. The extent to which heightened fiscal conservatism is reflected in state lawmakers' spending plans will soon be evident. But if rhetoric on the 2014 campaign trail is translated into fiscal year 2016 state spending plans, state higher education budgets could be reduced or flat-lined in order to fulfill pledges to scale back the size of state government.

3. Campus Sexual Assault

Campus sexual assault prevention, reporting and adjudication emerged as a top-tier higher education policy issue in 2014 and more dialogue and policy proposals are expected this year. States and higher education system leaders have reviewed or are reviewing existing policies, practices and programs aimed at preventing sexual assault, responding appropriately to cases of sexual assault, and ensuring compliance with federal law. Statewide reviews of sexual assault policies were initiated last year in [Louisiana](#), [Massachusetts](#), [New York](#), [Virginia](#) and [Wisconsin](#). Sweeping changes to state sexual assault policies and protocols were approved in [California](#), [Connecticut](#), [Maine](#) and [New York](#). The most visible and controversial change was the shift to affirmative consent policies (“Yes” means “Yes”) for sexual activity on college campuses. While only [California](#), [Maine](#) and [New York](#) have instituted affirmative consent policies, legislators in [Indiana](#), [New Hampshire](#) and [New Jersey](#) have expressed interest in adopting similar measures.

4. Veterans Education Benefits

States have enacted policies in recent years intended to facilitate college access and success for members of the U.S. Armed Forces, especially veterans returning from wars in Iraq and Afghanistan. Many state measures have provided in-state tuition rates for undergraduate programs to all returning veterans, regardless of their home state. In August 2014, Congress passed a measure that will compel all states to require their public colleges and universities to provide resident tuition rates to qualifying veterans and their dependents in order for these institutions to be eligible to receive payment of student-veterans' federal education benefits. The [Veterans Access, Choice and Accountability Act of 2014](#), also known as the "Choice Act," aims to ensure that veterans are able to maximize their education benefits under the Post-9/11 G.I. Bill and the Montgomery G.I. Bill-Active Duty. The new state requirement takes effect July 1, 2015. An initial survey of states' compliance with the in-state tuition requirement, conducted in the fall of 2014 by the Veterans Administration, suggested that no states were in full compliance with the new federal law. In the months ahead, therefore, state officials will work swiftly to ensure that their states comply with the requirements of the Choice Act.

5. Undocumented Students

Two states in 2014, **New Jersey** and **Florida**, passed legislation extending in-state undergraduate tuition rates to eligible undocumented students. In addition, an attorney general's opinion in **Virginia** concluded that recipients of Deferred Action for Child Arrival (DACA) can be considered for the in-state tuition rate. Legislation to extend state financial aid to undocumented students was approved in **Washington**, but a similar measure failed in **New York**. Eighteen states currently offer in-state tuition to undocumented students, and five states allow undocumented students to have access to state student financial aid, according to an analysis by the [National Conference of State Legislatures](#) (NCSL).

Three states specifically prohibit in-state tuition rates for undocumented students—**Arizona**, **Georgia** and **Indiana**, and two states—**Alabama** and **South Carolina**—prohibit undocumented students from enrolling at any public postsecondary institution, according to the NCSL. The state policy trend in recent years has been overwhelmingly in favor of providing greater college access to undocumented students, principally through the provision of lower-priced resident tuition rates. However, a new class of socially conservative lawmakers in many states may dampen this trend. For example, lawmakers in **Missouri** and **Texas** have indicated their intentions to clamp down on undocumented students' access to state-provided postsecondary education benefits in the 2015 session. In the meantime, the November 2014 executive actions taken by the Obama administration withholding deportation for up to 5 million undocumented individuals may provide further incentive for many to enroll in postsecondary studies.

6. Guns on Campus

State legislation mandating that individuals be allowed to carry guns on campus is likely to be introduced again in many states this year. The number of states in which lawmakers have stripped institutions' ability to ban guns on campus now stands at seven, according to an [NCSL](#) analysis. Currently, 20 states ban concealed weapons on campus, while 23 states allow individual public institutions to set their own concealed weapons policy. The higher education and law enforcement community, in unison with overwhelming public opinion, do not support the policy of arming civilians on college campuses, which are among the safest sanctuaries in American society. This year pro-gun organizations will again work to overturn campus bans on guns, including in **Florida** and **Texas**, where debate on the issue has been persistent. AASCU is united with 370 colleges and universities in 41 states in the [Campaign to Keep Guns Off Campus](#). As articulated in its [Public Policy Agenda](#), AASCU opposes state legislation that seeks

to strip institutional and/or system authority to regulate concealed weapons on campus.

7. Secondary-Postsecondary Education Standards Alignment

This year will mark a pivotal period in the transition to stronger K-12 education standards. The [Common Core State Standards](#), which articulate the learning objectives in English language arts and mathematics in each K-12 grade, have been adopted by 43 states. Most states have been in the process of implementing the standards for the past few years, but the 2014-15 academic year is the first in which assessment of the higher standards will begin. Application of the Common Core aligned assessments is taking place via two multi-state consortiums, the [Partnership for Assessment of Readiness for College and Careers](#) and the [Smarter Balanced Assessment Consortium](#). Adoption and implementation of the Common Core standards have not been without political and technical roadblocks. In this pivotal year, many college and university leaders will redouble their efforts to work with state officials to ensure a smooth transition to the new standards. Much of this energy will be channeled through the recently established [Higher Ed for Higher Standards](#), a coalition of leaders advocating for strong college- and career-ready standards, including, but not limited to, the Common Core.

8. State Student Aid Programs

The months ahead will witness considerable activity involving ongoing adjustments to states' student aid programs in terms of overall funding levels, the programs' blend of financial need and academic merit components, and students' eligibility for state grants, which represent 85 percent of all state student aid. In 2012-13, almost 4.1 million grant awards were made, representing about \$9.6 billion in need-based and non-need-based grant aid, according to the latest annual survey conducted by the National Association of State Student Grant Aid Programs ([NASSGAP](#)); this reflects a 2 percent increase from the prior year. Up until the early 1980s, essentially

all state grant aid was distributed based on students' financial circumstances. By 2012-13, only three-fourths of grant aid was dispersed on this basis, according to the latest [Trends in Student Aid](#) report, produced by the College Board. Also in 2012-13, according to the report, 23 states considered students' financial circumstances in allocating at least 95 percent of their state grant aid. In 15 states, financial circumstances were considered for less than half of the state grant aid.

9. Performance-Based Funding

Spurred by the need to improve completion rates and address longstanding gaps in degree attainment among traditionally-underserved populations, states have shifted from enrollment- to performance-based funding (PBF) for public colleges and universities over the last several years. In 2014, new PBF systems were enacted in **Colorado**, **Iowa** and **Missouri**. Governors in **Indiana** and **Montana** have already expressed their support for integrating PBF metrics into their higher education funding formulas this year, while **Utah** officials plan to triple the amount of PBF in the upcoming state budget. **Texas** officials also plan to advocate for a PBF plan for state universities. According to the [NCSL](#), more than one-half of the states now have PBF in place at either two- or four-year institutions of higher education, with wide variations in performance metrics and the amount of state funding distributed based on performance. Now that PBF has been in place for several years in some states, scholars may be able to accumulate enough data to draw initial conclusions about the extent to which these PBF systems have served as a catalyst for improving campus outcomes.

10. Free Community College

In 2014, **Tennessee** Governor Bill Haslam signed the "Tennessee Promise" into law, a program that guarantees no-cost tuition for new high school graduates in the state pursuing degrees at state community or technical colleges. The program is "last dollar in" for students whose tuition costs are not covered by existing state or federal financial

aid programs. Tennessee's free community college initiative has captured the attention of lawmakers in other states and is likely to be considered for replication in several capitols this year. **Oregon** lawmakers are currently weighing the cost of providing tuition-free community college, while a bill in **Mississippi** that resembled the Tennessee measure had some support but ultimately failed to pass in the 2014 legislative session. The Tennessee approach is not without controversy—some have argued that the plan directs funds to wealthier students who are financially ineligible for need-based financial aid programs, while ignoring non-tuition expenses for low-income students and the needs of students at the state's public four-year universities. However, others maintain that the notion of "free college" could spark greater interest in college among traditionally underserved populations and ultimately boost degree attainment if augmented by effective student support services and streamlined transfer policies. Policymakers, scholars and others will be watching the successes and shortcomings of the Tennessee Promise and explore the feasibility of implementing similar programs in other states.

Other State Policy Issues

Community college bachelor's degree: Lawmakers in **Colorado** and **California** approved bills in 2014 that allow the state's community colleges to confer bachelor's degrees in vocational or high-need fields; more states are expected to explore community college baccalaureate degrees in order to meet evolving local, regional and state workforce needs. Currently, 22 of the 50 states allow community colleges to confer bachelor's degrees.¹

Dual credit/concurrent enrollment: More than a dozen governors discussed dual enrollment policies during their [State of the State addresses](#) in 2014, and a continued emphasis on expanding state dual enrollment opportunities is expected again this year. State leaders have argued that such policies

help bridge the gap between K-12 education and college studies, streamline and accelerate pathways to the workforce, cut tuition costs, and help facilitate college completion.

Consumer protection involving for-profit colleges: State attorneys general remained active in investigating and prosecuting state consumer protection violations by for-profit colleges in 2014, with **Massachusetts** Attorney General Martha Coakley leading the charge through new state regulatory measures governing the industry. More scrutiny toward this higher education segment is expected this year. Currently, 37 state attorneys general are collaborating in a working group to examine the industry's practices, with 24 attorneys general investigating for-profit colleges within their respective states.²

Pay-It-Forward (PIF) college financing: Lawmakers in more than 20 states considered legislation to study or implement Pay-It-Forward (PIF) college financing in 2014, but interest in this policy waned late in the year and is expected to further diminish this year. PIF is a far-reaching policy proposal that would eliminate up-front tuition and fees in exchange for students repaying a percentage of their income for an extended period following graduation (for up to 25 years in some cases). However, [questions have been raised](#) related to the program's startup costs, administrative burden, and the potential for instability and uncertainty in institutional finance. While an **Oregon** panel recommended that legislators consider a pilot program, and a few states passed measures to study this financing model, most PIF bills failed to garner a critical mass of legislative support.

Reciprocal state authorization of distance education programs: The national effort to reduce the regulatory burden placed upon states in authorizing out-of-state distance education providers continues to gather momentum. Eighteen states have entered into voluntary reciprocity agreements through the auspices of the National Council for

State Authorization of Distance Education (NC-SARA), with another seven states expected to join the agreement in the near-future. Higher education officials and lawmakers in many of the remaining states are expected to discuss participating in the initiative in 2015. Supporters of the state reciprocity agreements commend the streamlining of program authorization and the associated revenue collection, while others share concerns about the agreement's perceived lack of consumer protections and lack of control by state agencies over out-of-state postsecondary providers.

States' review of privacy laws: Mounting parental concern about increasingly sophisticated data collection, data-warehousing, and data-mining of students by governmental and commercial entities made 2014 a banner year for state educational privacy bills. According to the NCSL, some 105 privacy bills were introduced last year in 35 states, and 15 states enacted tougher privacy protections for student records. Concerns about excessive data collections, greater public awareness of data breaches, and parental alarm about prejudicial impact of longitudinal data systems on their children's future will likely make 2015 an even more active year for educational privacy, with a high probability of federal and state legislation being introduced.

Conclusion

As a new class of state legislators and governors take office this month, they will be confronted with an array of new and longstanding policy issues affecting public higher education. While lawmakers in many states have in the past two years redoubled their commitment to funding public colleges and universities and worked to keep tuition increases to some of the lowest in a generation, it remains unclear whether progress made on mitigating the state-to-student cost shift will continue in 2015. New issues, such as college sexual assault prevention and privacy policies, will also challenge both campus and state officials in the year ahead. The diverse array of vexing policy issues on legislative calendars will make it incumbent upon higher education advocates to listen to the concerns of state policymakers, share higher education's diverse array of contributions to state well-being, and build a culture of collaboration that will set the tone for a successful campus-capital relationship for 2015 and the second half of the decade.

Endnotes

¹Koseff, Alexei. "Jerry Brown Approves Community College Bachelor's Degree," *The Sacramento Bee*, October 8, 2014, accessed December 16, 2014 <http://www.sacbee.com/news/politics-government/capitol-alert/article2615016.html>.

²Halperin, David. Law Enforcement Investigations and Actions Regarding For-Profit Colleges, *The Republic Report*, December 12, 2014, accessed December 16, 2014 <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/>.

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