



## The Stop-and-Go Nature of Congress

Many key higher education issues face long paths to passage – and then implementation.

BY CARRIE WARICK-SMITH

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**B**Y THE NATURE OF ITS DESIGN, THE WORK OF CONGRESS is frequently stop and go. Some proposals move through quickly, spurred by strong bipartisan support or catching a ride on the coattails of a must-pass piece of legislation. Others trod through slowly, moving from one legislative package to the other, taking months or longer to become law, and in many cases, not moving forward at all. Those that do make it can also have a long road to implementation. The most talked-about higher education issues from the past year and a half are a clear demonstration of this stop-and-go nature of our federal government, with most of them experiencing long waits.

### Second Chance Pell

One proposal’s long wait is finally paying off. The ability for incarcerated individuals to qualify for Pell Grant funding for higher education was revoked in the 1990s but has experienced a resurgence of support over the past several years. In particular, the success of the Department of Education’s Second-Chance Pell experimental site program, which allows select institutions to award financial aid outside the normal regulations, helped build momentum for it.

In December 2020, Congress passed the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA), which again permitted higher education programs for incarcerated students to participate in the Pell Grant program. In fall 2021, the Department of Education convened a negotiated rulemaking committee to determine the regulations for these programs. The Department of Education released the rule for a public comment period that ended in July. It will release the final rules by November 1, 2022, for programs to use starting July 1, 2023.

These changes are a long time coming. For colleges that have continued to offer these programs without Pell Grant support, this is

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a welcome chance to expand access for incarcerated populations. For colleges that were not able to offer programs, returning the access to Pell Grants for incarcerated students opens the possibility of bringing higher education opportunities to the prisons in their area.

### Short-Term Pell

A top priority of community colleges that saw much action in the 117th Congress is “Short-Term Pell.” This proposed expansion of the Pell Grant program would allow students participating in programs as short as 150 clock hours or 8 weeks to apply for Pell Grants. This proposal continues to move farther along in the legislative process but has not yet made it into law.

Introduced as the Jumpstart Our Businesses by Supporting Students (JOBS) Act, considered for an amendment to the Senate United State Innovation and Competition Act (USICA), and then ultimately successfully added as an amendment to the America COMPETES (Creating Opportunities for Manufacturing, Pre-Eminence in Technology, and Economic Strength) Act, the provision was dropped when the two competition bills were passed in August 2022 as the CHIPS and Science Act, a scaled down package focused on semiconductor chip manufacturing and federally funded scientific research. Short-Term Pell now continues its waiting game.

### Tuition-Free Community College

In 2021, President Biden announced his domestic policy agenda through three proposed legislative packages: the American Rescue Plan, the American Jobs Plan, and the American Families Plan. The first passed into law in 2021 under a budgetary procedure called reconciliation. It provided institutions of higher education \$39.5 billion through the Higher Education Emergency Relief Fund (HEERF III). The second proposal passed Congress in a bipartisan manner and became the Infrastructure Investment and Jobs Act, colloquially known as the bipartisan infrastructure law. This bill provided \$65 billion for broadband deployment infrastructure and included a few small-scale workforce training programs. The last item of the President’s agenda became known as Build Back Better and included tuition-free community college. As Congress made continued revisions, downsizing the scope and cost of the proposals, tuition-free community college was dropped and funding for

workforce training at community colleges was added. Ultimately, intra-party negotiations among Democrats seemed to stall completely.

Then, over the summer, the reconciliation package reemerged as The Inflation Reduction Act of 2022 with a narrower scope targeting healthcare costs and climate change. While the bill was signed into law in August 2022, the community college priorities previously in Build Back Better unfortunately must wait for another opportunity.

### Gainful Employment

Finally, regulations at the Department of Education can end up caught in the waiting game as well. Like Second Chance Pell, which required two years to move through the regulatory process, the new gainful-employment regulations are taking a similarly long route. The Higher Education Act requires that any non-degree program at a public institution must lead to “gainful employment” to be eligible for federal financial aid. However, the law does not define what constitutes gainful employment. The Obama Administration created a definition for gainful employment, which was later removed by the Trump Administration. The Biden Administration decided to create its own definition, convening a negotiated rulemaking panel in winter of 2022. However, the Department announced that the draft rule governing gainful employment would not be released until April 2023, meaning it would not be enacted until July 1, 2024.

The policy process in Washington can take a long time, but news can also happen at any moment. To stay up to date on the issues mentioned in this column, and on the latest action related to community colleges, sign up for the Latest Action in Washington electronic alerts by emailing [publicpolicy@acct.org](mailto:publicpolicy@acct.org) or visiting [now.acct.org](http://now.acct.org).



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