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Tuition-Setting Authority and Deregulation at State Colleges and Universities

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Context

State support for public colleges and universities is based on a historic relationship; these institutions were established to perform the public service mission of predominantly educating residents from local and state-wide communities at a lower price than private, independent colleges and universities. In return, the states appropriated funds for their operation and expansion.

Although these state and local appropriations have eroded in recent decades—particularly when contrasted with enrollment growth—and have decreased precipitously in the current recession, they remain the single largest revenue source for public colleges and universities. According to the State Higher Education Executive Officers (SHEEO) association, state funds provided approximately 58.5 percent of public institutions' general operating revenues in FY 2009, with tuition and fee revenue providing 33.4 percent.

This traditional arrangement has been considerably frayed by the current recession and compounded by state funding cuts to higher education in previous recessions. Given that public colleges and universities receive revenue from tuition and fee charges, unlike most other state-provided services such as corrections and Medicaid, many state lawmakers have chosen to cut appropriations to higher education in the current and previous economic downturns. The situation is exacerbated because public institutions generally do not have multiple alternate revenue sources to make up for state funding cuts. Endowment income is not a significant source of revenue for most public institutions of higher education. Other revenue sources (e.g., research and independent operations) are inconsistent across public institutions and generally not devoted to general operating support.

Despite surges in enrollment, state and local support to higher education—including $2.3 billion in funds from the American Recovery and Reinvestment Act (ARRA)—remained nearly flat in 2009 at $88.8 billion. Of the funds, approximately 78 percent was spent on public institutions' general operating expenses; this proportional allocation has not materially changed since 2004 (SHEEO, 2010). Public institutions' net tuition revenue collection, by contrast, totaled $44.5 billion in 2009. While ARRA funds were used in 15 states in 2009 to cover gaps in operating budgets at public colleges and universities (SHEEO, 2010, p. 10), these funds are short-term in nature and do not extend beyond 2011. Meanwhile, recession-related enrollment surges in many parts of the country exacerbate higher education's funding challenges.

As a result of these multiple factors, institutions will be forced to continue to look toward tuition revenue as a partial replacement for decreased state funding; in recent years, tuition increases have been largely driven by this kind of cost-shifting on the part of states. However, many public colleges and universities remain subject to state control and regulation of their tuition and fees. This control only applies to public institutions in a given state; their counterparts in the private not-for-profit and proprietary sectors can choose to raise tuition and fees as necessary, subject only to their governing boards' or corporate management's approval.

Therefore, the current economic recession—combined with the history of insufficient state investment in higher education—has led to some discussion of public university tuition deregulation. This would allow public institutions autonomy to set their own tuition rates rather than have their tuition rates or underlying tuition policy be controlled in whole or in part by state legislatures.

This policy brief explores the structures of state college tuition-setting authority and selected recent state tuition deregulation proposals/initiatives, as well as presents some common arguments for and against tuition deregulation.

Observations

Tuition-setting authority for public colleges and universities—and hence, legislators' control over tuition and fees at these institutions—is not uniform across states. According to a 2006 analysis by SHEEO, nine states indicated no singular formal philosophy behind tuition-setting; 22 other state agencies described their tuition-setting philosophy as being predominantly guided by the needs of their state colleges and universities. Multiple policy rationales can govern state tuition setting. Some major rationales that helped form policy included tuition affordability and access to higher education, as well as educational quality and competitive tuition when compared to other states (SHEEO, 2006, pp. 7-8).

In terms of tuition-setting authority, states reported to SHEEO that various stakeholders/entities have anywhere from full to consulting authority. These include governors; state legislatures; state coordinating agencies for one or more state higher education systems; local district governing boards; and individual state institutions. This combination of overlapping policy rationales and multiple stakeholders with different levels of authority on tuition-setting varies depending on a particular state and the way in which public colleges and universities are governed by that state. It also means that the way tuition is set and controlled can be influenced by a large array of considerations.

For instance, according to the 2006 SHEEO report, states reported taking into account such factors as state general fund appropriations, prior year's tuition, tuition charged by peer institutions, institutional mission, cost of instruction, and public/media concerns about higher education costs when making decisions on tuition. States also considered nationwide indices like the Consumer Price Index (CPI) or Higher Education Price Index (HEPI) when setting tuition. The frequency of each factor's consideration varied by state, but 47 states named state general fund appropriations as one of the top three factors taken into account when setting tuition and 36 states named them as the most influential factor (SHEEO, 2006, p. 14). Other factors that were consistently part of the top three influences on states' tuition-setting included peer institutions' tuition charges (named by 19 states as one of their top three factors); prior year's tuition (named by 16 states as one of their top three factors); and institutional mission (named by 16 states as one of their top three factors). The interplay of these factors differs from state to state and system to system.

Just as state tuition-setting authority is not consistent, deregulation proposals and agreements are not monolithic; the types of deregulation being proposed or that have been recently implemented vary depending on state public higher education systems and state legislatures. Five recent examples of both proposed and implemented tuition deregulation follow. While they have several points in common (e.g., restrictions on use of increased tuition revenue, required compliance with measurements of student success, set-asides for student financial aid), they vary according to individual state needs and structures.

2003 (Texas)

In 2003, Texas amended its Education Code to allow its public universities' governing boards to set different designated tuition rates; prior to that, the Texas Legislature was the regulatory authority on both statutory and designated tuition rates and generally set the same designated tuition rate across the state. Designated tuition rates, in Texas, are an additional tuition charge that all institutions except community colleges can impose on all students if their governing boards deem it necessary for the institutions' operation. The base tuition rate is a statutory charge determined at the four-year level by the Texas Legislature.

The Legislature required universities to mitigate the impact of tuition deregulation by setting aside at least 15 percent of resident students' designated tuition charges (both graduate and undergraduate) exceeding $46 per semester credit hour for undergraduate and graduate financial aid. In addition, universities were required to set aside an additional 5 percent of undergraduate designated tuition charges exceeding $46 per semester credit hour to fund the Texas B-on-Time Student Loan Program (Texas Higher Education Coordinating Board, 2009). According to the Texas Higher Education Coordinating Board, these financial aid set-asides (not including the student loan program) totaled $248 million for undergraduates and $48 million for graduate students over FY 2005-2008.

In addition, the Legislature mandated that every institution participating in tuition deregulation (i.e., all public universities) had to meet performance criteria and show progress toward the goals outlined in both institutional and state master planning for higher education. Performance criteria include graduation rate measures, retention rates, affordability measures and financial aid opportunity.

Since 2003, institutions have reported to the Texas Higher Education Coordinating Board that the increased tuition revenue is being used to fund a greater share of operations-related expenses such as hiring faculty and staff, lowering student/teacher ratios, paying higher utility costs and maintaining/improving facilities. However, also according to the Texas Higher Education Coordinating Board, the statewide average total academic charges for a student enrolling for 15 semester credit hours at a public university in Texas have increased by 63 percent from fall 2003 to fall 2008 (Texas Higher Education Coordinating Board, 2009). In turn, some legislators are now calling for a return to state regulation of designated tuition.

2005 (Virginia)

Virginia's Restructured Higher Education Financial and Administrative Operations Act (2005) illustrates a different type of tuition deregulation model. This act granted various levels of autonomy to public colleges and universities in Virginia in exchange for the institutions' agreement to a set of goals known as "state asks" (SCHEV, 2010). One of these is keeping tuition affordable; institutional compliance with this and other goals are subject to annual evaluation by the State Council of Higher Education for Virginia (SCHEV).

The minimum level of autonomy granted allows all institutions' Boards of Visitors to set tuition and fees. Institutions admitted to the most highly autonomous level, Level III, also sign management agreements with the governor and General Assembly that give them operational authority over capital outlay, information technology, procurement, human resources and finance (SCHEV, 2010). There are currently four Virginia institutions at Level III status: The College of William and Mary (2005), the University of Virginia (2005), Virginia Tech (2005) and Virginia Commonwealth University (2008).

2007-2009 (Florida)

For many years, the state legislature in Florida prided itself on keeping tuition at its public colleges and universities among the lowest in the country. However, this came at a price in terms of having less than sufficient funds to help meet enrollment demands, attract top faculty talent and provide adequate student services. Thus, a deregulation similar to that in Texas took place in Florida from 2007-2009. In 2007, Gov. Charlie Crist signed differential tuition fee legislation into law that initially allowed five Florida public universities' boards of trustees to propose a variable differential tuition fee to the Florida Board of Governors for the next academic year, 2008-09. In that academic year, this fee revenue could only be spent on undergraduate educational expenses; the five eligible universities used the revenue to hire more faculty and academic advisors, as well as to maintain courses that would otherwise have been cut because of a lack of funds (Florida Board of Governors, 2009).

However, in 2007 a still-pending lawsuit was initiated to strip the Legislature of its power to set tuition at state colleges and universities. The Florida Board of Governors withdrew from the lawsuit in 2010; the lawsuit not only was opposed by the new Florida university system chancellor, but strained relations between universities and state lawmakers.

In 2009, the statutes were revised to allow all state universities to submit proposals for differential tuition fees to the Board of Governors, albeit with added regulation by the Board of Governors. Institutions are required to use 70 percent of the tuition differential fee revenue to support undergraduate education and 30 percent of the tuition differential fee for undergraduate financial aid. Total increases in base tuition, plus the tuition differential fee, may not exceed 15 percent per year; also, in-state tuition and fees may not exceed the national average of four-year public institutions' tuition and fees. In addition, institutions must meet performance and student success metrics similar to those in Texas in order to be approved for a tuition differential fee. They must also state how they intend to monitor their compliance with required work plans and metrics.

In the 2009-10 academic year, all state universities in Florida are charging the tuition differential fee. Rates range from $5.74-$13.74 per credit hour. The Board of Governors estimates this will raise an estimated $33 million in revenue for the academic year, divided between $23.3 million used to support undergraduate education (e.g., used to hire more faculty and advisors and to run courses that otherwise would have been canceled due to lack of funding) and $10.4 million used as need-based financial aid funds (Florida Board of Governors, 2009).

2010 and Beyond

These states are not alone in proposing tuition deregulation based on a combination of high enrollment demand, debilitating state budget cuts to higher education, and very limited alternative revenue sources.

In early 2010, legislation was introduced in the Washington state Legislature aimed at providing the University of Washington, Washington State University and Western Washington University autonomy to set their own in-state undergraduate tuition for a specified time period and within limits. Currently the state legislature controls tuition-setting authority. Gov. Christine Gregoire supported the legislation to help institutions attempt to offset major state cuts to higher education in the state budget—$68.2 million on April 14, 2010 on top of a previous $427 million cut. The bill did not pass the House Higher Education Committee, but the issue remains important to institutions and lawmakers.

In New York State, Gov. David Patterson proposed as part of his 2010-2011 executive budget recommendation that the City University of New York (CUNY) and State University of New York (SUNY) campuses be permitted to set their own tuition rates. Currently, the state legislature controls tuition increases as part of the overall state budget process, as well as decides what percentage of their own tuition revenue institutions are permitted to keep.

The governor's proposal stems from a 2008 report by the New York State Commission on Higher Education that recommended allowing CUNY and SUNY institutions to set their own tuition rates within prescribed parameters and returning tuition revenue directly to the campuses rather than to the state for redistribution. According to the report, chronic underfunding by the state has created over $5 billion in "critical" maintenance backlogs across both systems and "unacceptably low proportions of full-time faculty" (New York State Commission on Higher Education, 2008, p. 51). The proposal had not been acted on by the legislature at the time of this writing.

It also remains to be seen whether the talk of a "new normal" of permanently reduced state higher education funding for public colleges and universities will result in more proposals such as the ones in Washington and New York. Bearing in mind the gaping holes in state budgets and with little relief in sight, lawmakers in other states may turn to solutions such as tuition deregulation given their limited ability to increase appropriations for higher education.

The arguments for and against tuition deregulation not only involve finance, but also policy and emotion. These debates touch on topics such as what public services a state owes to its citizens (from all economic backgrounds); the limitations of the public good and the public purse; the triaging of state social services in a recession; and the proper priority of public higher education in American society. Some common arguments on both sides are presented below.

Arguments in Favor of Tuition Deregulation

Those who support greater institutional autonomy in tuition-setting policy offer the following arguments:

- Tuition deregulation, subject to reasonable restrictions, allows public higher education institutions a way to compensate to some degree for the effects of state budget cuts.

- If states do not choose to support public higher education through appropriations, institutions still need to generate operating capital; without major alternative revenue streams, tuition is the only significant potential revenue source.

- Increases in tuition and fees can also be partly directed toward meeting enrollment capacity by hiring more faculty and offering more courses (as seen in Fla. and Texas). This can also potentially lower student/faculty ratios.

- Increases in tuition and fees can be partly directed toward increased financial aid for needy students (as seen in the Fla. and Texas deregulation agreements, where funds are specifically set aside for financial aid to offset the increased tuition charges).

Arguments Opposing Tuition Deregulation

Meanwhile, those who oppose greater institutional autonomy in tuition-setting policy counter with arguments such as:

- Public institutions of higher education were originally founded to provide low-cost, accessible education for state residents as part of the public good. Deregulation of tuition-setting authority potentially jeopardizes this mission as well as potentially leads to further privatization of public colleges and universities.

- Deregulation may lead to steep increases in tuition and fees, thus decreasing access to public higher education for both the financially neediest students and middle-class students who do not qualify for need-based financial aid.

- Tuition deregulation removes state legislative control over public colleges and universities; without this, public colleges and universities may be more inclined to raise tuition and fees rather than cut costs.

Conclusion

The issue of tuition deregulation at public colleges and universities encompasses finance, public policy, political ideology and public opinion. Declining state appropriations over time, combined with recession-driven state budget cuts and compounded by recession-driven enrollment surges, bring the issue of tuition deregulation to the fore for many state colleges and universities with few funding sources other than state appropriations or tuition.

Students and families also affected by the recession, however, fear being "priced out" of state colleges that were established to educate the state's citizens at a low cost. Often caught in the middle are state lawmakers, who simultaneously argue that a) public colleges have a revenue source (tuition) unavailable to other state services, so other vital state budget needs should take priority and that b) in order to satisfy constituents' concerns about rising college costs, tuition and fee charges at public colleges must be regulated to ensure affordable access.

There is no easy solution to ensuring public colleges and universities' financial stability given declining state appropriations, increasing student enrollment, and increasing costs. Any exploration of deregulating tuition at public colleges and universities should be done cautiously, with maintaining student access as a top priority. However, states and their public institutions may increasingly be forced to at least weigh the pros and cons of some form of deregulation—particularly when those institutions do not have other revenue sources such as independent research/auxiliary income or large endowments.

Resources

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