



## Top 10 State Policy Issues for Higher Education in 2009

by  
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### Introduction

Presented here are the top 10 issues most likely to affect public higher education across the 50 states in 2009, in the view of the state policy analysis and research staff at AASCU. While numerous topics shape state higher education policy, each affecting the issues of affordability and quality, our focus is on the overarching issue of college access. This synopsis is informed by a scan of state policy activities of the past year, an analysis of trends, and consideration of events that will likely shape the policy landscape. Some issues are perennial in nature, while others reflect attention to near-term circumstances (i.e., current economic turmoil) as well as recent federal and state policy actions. The influence of any given issue will, of course, vary across individual states.

### #1—States' Fiscal Crises

The economic storm clouds that were gathering on the horizon early in 2008 have opened up over the past year, unleashing a torrent of negative economic data resulting in declining revenue in most states. The nation as a whole has been in a recession since December 2007, but for many states, the downturn began well before then. States are in the process

of closing \$30 billion in current year (fiscal 2009) budget shortfalls and face nearly an additional \$200 billion in budget gaps over the next 18 to 24 months, according to the National Governors Association (NGA). States as small as Rhode Island and as large as California are being battered by large revenue shortfalls. The Wall Street meltdown, declining real estate values, decreasing consumer spending, and increasing unemployment are among the factors hastening already existing state structural deficits. The NGA predicts that states will reduce spending in the current fiscal year budget cycle for the first time in a quarter century. It is from this stark reality that most state higher education policy action in 2009 will follow.

The end result has been—and may well continue to be—reduced state appropriations for public postsecondary education as state lawmakers stitch together budgets for the 2010 fiscal year, which begins on July 1 for all but four states. This comes at a time when public higher education institutions and systems are still trying to make up ground in state appropriations that had been lost during the economic downturn earlier this decade. While perhaps no state agency will be spared from

pared-back state spending plans in the year ahead, past history suggests that higher education could well receive a disproportionate share in the fiscal bloodletting. The cascading effect of the states' financial crises will impact many crucial state policies and programs, including state student grant programs, tuition prices and student enrollment.

## **#2—Tuition Prices and Tuition Policy**

In the wake of reduced state funding for higher education (or in a few cases, modest increases), increases in tuition prices at public colleges and universities are sure to follow. Institutions of higher education are going to great lengths to cut costs, but such efforts will likely not negate the need for colleges to hike tuition rates—sometimes dramatically—to offset reduced state support. Fall 2009 increases may, in many instances, be considerably higher than the national average increase of 6.4 percent witnessed at public four-year institutions in fall 2008, especially for those colleges facing the double blow of reduced state support paired with increases in student enrollment. In reaction to mid- (fiscal) year state budget cuts, and in anticipation of further erosion in state funding in fiscal year 2010, some institutions have taken the rare action of increasing tuition mid-year.

Significant increases in tuition prices—especially those taking place at public colleges and universities—will likely stoke debate over tuition policy, who controls it, and to what extent it should be regulated. Despite tuition increases largely provoked by insufficient, if not declining, state appropriations for higher education, many state lawmakers and other governing bodies with tuition setting authority may tussle over the parameters of these increases. Calls will be made to legislatively restrict increases, and efforts will be made to incentivize, or punish, institutions and systems to keep increases in check. Conversely, scenarios may arise in which appeals are made to loosen restrictions over tuition increases in order to meet demands for rising enrollments and to maintain the quality of undergraduate instruction. Florida serves as a case in point, with Governor Charlie Crist

recently bowing to longstanding calls for that state's public postsecondary institutions to raise what are some of the lowest tuition rates in the nation to considerably higher levels to meet enrollment and quality demands. Likewise, New York Governor David Patterson recently proposed allowing the SUNY and CUNY systems to raise tuition for just the second time in 13 years to offset a proposed \$348 million reduction in state funding for the two systems.

## **#3—State Student Grant Aid Programs**

State grant aid to college students can be based on merit, financial need, or both. Over time, states have shifted from awarding predominantly need-based financial aid to a mix of merit- and need-based aid programs. In 2006-07, according to the College Board's Trends in Student Aid, the amount of state grant aid not based on financial need was 28 percent, up from 17 percent nine years earlier. Facing large budget deficits, state-funded student grant programs may well be a target for overhaul, such as implementing tighter restrictions on eligibility, as was the recent case in New Jersey for that state's popular STARS and STARS II scholarship programs. Ensuring fiscal integrity of these programs and striking a balance between financial need-based and merit-based qualifications will be a focus of state policy action in 2009. The federal government's Pell Grant program, the bellwether of all financial aid programs, has seen a huge increase in the number of applications in light of the economic downturn. Likewise, the pressure will be on at the state level to maintain, if not bolster, need-based aid.

## **#4—Enrollment Capacity**

Although the bubble in the Baby Boom echo has popped—with the largest high school graduating class having taken place in 2008—any leveling off of enrollments at many of the nation's colleges and universities may be postponed due to burgeoning demand that is often witnessed during a recessionary period. Traditional-aged undergraduates may find themselves not only competing for seats in classrooms at their state universities and community colleges, but also with

unemployed and under-employed adults who are returning to campus to upgrade their skill sets. As with tuition policy, the struggle over balancing enrollment levels with both fiscal and physical (instructional and laboratory) capacity may be contested at various levels of governing authority within states.

States in the West and Southwest, such as Arizona, California, Nevada, Texas and Utah, exemplify the enrollment capacity dilemma. Enrollment pressures will likely vary according to the relative affordability of each sector of postsecondary education, with the squeeze particularly burdensome at public two-year institutions. The California State University System recently announced the unprecedented move to reduce enrollment by 10,000 students across its 23-campus system for the fall 2009 term in order to address midyear budget cuts—and more cuts that are likely on the way—that stem from plummeting state revenues. At the state's 109-institution community college system, suggestions have been made that upwards of a quarter million students may be turned away, not through formal enrollment policy, but rather as a result of sheer capacity limits. The availability of seats in classrooms, as well as course sections, will be at a premium; developing policies that balance enrollment demand and workforce needs with the requisite infrastructure and funding will be high on the higher education agenda in many states.

## **#5—Implementation of Higher Education Opportunity Act**

Increased transparency and accountability were key themes of the long-awaited reauthorization of the Higher Education Opportunity Act (HEOA) in 2008. A significant number of reporting requirements for colleges, textbook publishers, lenders, the U.S. Department of Education and other higher education-related entities aim to better inform consumers, making students and families a clear winner in the HEOA.

The sweeping legislation also intends to foster greater accountability on states' part in financing their share of public postsecondary education

by imposing a Maintenance of Effort (MOE) requirement. Under this provision, states must now appropriate operating funds for their public colleges and universities, and for financial aid programs provided to private institutions in the state, at an amount equal to or greater than the average during the prior five years. There are limited waiver provisions for "exceptional or uncontrollable circumstances," and many state leaders are insisting that the current recession is reason enough for a temporary release from the spending requirement. The National Governors Association has requested the U.S. Department of Education to waive this requirement for the next budget cycle due to the current recessionary impact on states. The Department has yet to weigh in on states' obligations for the next budget-setting cycle. The penalty for noncompliance is the Department of Education's withholding of College Access Challenge Grants, a state-matching grant program aimed at boosting access to underrepresented populations. While these grants were first funded in FY 2008 and average only about \$1,158,000 per state, the intent of the provision is to emphasize that states must not neglect their responsibility to higher education. This MOE provision and several other rules within the reauthorized HEOA will likely play a role in higher education state policy in the months ahead.

## **#6—The Incoming Obama Administration**

Considerable potential exists for the actions of President-elect Barack Obama to impact state higher education policy decisions in 2009, both through enactment of his various campaign policy proposals and through inclusion of higher education as part of the administration's economic recovery strategy. A refundable tax credit up to \$4,000 for students in exchange for their contribution of 100 hours of community service, streamlining the federal student grant aid application process, boosting the maximum Pell Grant award, and a matching grant program for states to raise awareness of federal and state financial aid programs are among the proposals Obama offered during his campaign. On a more immediate basis, calls have been made to

include higher education in what is anticipated to be a federal economic stimulus package in the range of \$750 to \$850 billion, either through a one-time injection in federal student aid to boost enrollment, or through capital outlay dollars that will expand instructional and research capabilities at the nation's colleges and universities.

It is hoped that state leaders will complement any policies and spending programs that are championed by the Obama administration so to maximize the potential for increasing postsecondary access and exploit the full economic energy produced through the workforce development, applied research, and regional outreach activities performed by the nation's colleges and universities. Conversely, it is critical that states do not use any positive investment in higher education made at the federal level to supplant, rather than augment, the workforce development and economic development capabilities of the nation's public postsecondary institutions.

## **#7—College Readiness**

Though less time-sensitive, the need to increase the number of high school graduates who are prepared for college will continue to be a critical issue over the next year. More than a quarter of entering college freshmen take at least one remedial course in college, and this proportion is even higher at less selective four-year institutions and at community colleges. Students who are underprepared for college have a harder time completing their educational goals, and both public and private costs of degree attainment are greater. Many underprepared students do not even enroll in college, and a sizable number simply drop out of high school. If the U.S. is to remain competitive in the global economy, more must be done to strengthen the educational pipeline in order to dramatically increase the number of two- and four-year college degrees produced each year.

State and national policymakers have implemented a variety of approaches over the past 25 years to increase the college readiness of high school students, and will continue to make progress

in the year ahead. This includes efforts to implement graduation requirements aimed at assuring that all graduates are prepared for college (as opposed to systems in which students are specifically tracked into, or out of, college-preparatory curriculums); efforts to align state K-12 standards with postsecondary and workforce expectations; and efforts to align secondary and postsecondary assessments. All of these strategies have potential for improving college readiness, particularly if developed in conjunction with broader P-16 initiatives, longitudinal data systems, and coordinated accountability reporting.

## **#8—Veterans' Education**

The upcoming August 1, 2009 implementation of the Post-9/11 Veterans Educational Assistance Act of 2008, also known as the Post-9/11 GI Bill, will be a watershed moment in the history of educational assistance for veterans and servicemembers. It provides veterans with at least 90 days' active duty service post-9/11 and remaining GI Bill eligibility with tuition and required fee payments scaled to the most expensive public college in their state of residence, a housing stipend for some veterans, and a book stipend. Eligible colleges and universities may also sign on to the Yellow Ribbon Program, which allows institutions to pay up to 50 percent of eligible veterans' tuition and fee costs not covered by the Post-9/11 GI Bill and receive matching funds from the Department of Veterans Affairs (VA) for the remaining 50 percent.

The major issue in 2009 will be how this groundbreaking program will fare in implementation. The VA will be manually processing claims using pre-existing computer systems until a specialized computer system can be built to handle the new demands of the Post-9/11 GI Bill. This manual processing of claims, combined with an unknown number of veterans utilizing the Post-9/11 GI Bill benefits (best estimates hover around the 300,000 mark in its first year), and the need to write a new set of rules governing the program's benefits all add up to a complicated implementation process being put into place under an extraordinarily tight time frame. State higher education policy may be



affected either through the bill's implementation process or through the creation or augmentation of currently existing state programs aimed at facilitating postsecondary access for veterans.

## **#9—Undocumented Students**

Higher education access and affordability for undocumented students will continue to be debated in 2009, with potential trend-setting consequences. Existing federal law pertaining to in-state tuition for undocumented students is ambiguous, and Congress has repeatedly failed to pass a measure such as the DREAM Act that would support states' rights to offer in-state tuition to these students. Between 2001 and 2006, 10 states passed measures to provide in-state tuition rates to undocumented students who meet the specified criteria (including residency in the state for a given period of time, earning a high school diploma, and signing an affidavit to agree to seek legal residency status), but since then, no additional states have followed suit. Policymakers have become increasingly wary of acting on this issue without the support of federal law.

In the past couple of years, there have been several high-profile court challenges to existing in-state tuition laws. In September 2008, a California appeals court ruled for the first time that the state's 2001 law giving undocumented students in-state tuition rates violates a 1996 federal law. The California Supreme Court has agreed to hear the case, and though not binding on other states, it will have implications elsewhere. Officials in other states (including Texas and Utah) have already asked for similar review of their state laws. Also for the first time in 2008, the right of undocumented students to enroll in public institutions in a state has been called into question. In South Carolina, undocumented students have been barred from enrolling in all public institutions (even if they pay out-of-state tuition rates), and in North Carolina and Alabama, they have been barred from community colleges.

As to the future, the new administration and the new Congress should be more favorable toward passing federal legislation that would clarify states' rights

to offer in-state tuition benefits to undocumented students. With this change, the number of states with laws favorable to undocumented students would likely increase, and such a law could stem court challenges such as the one in California.

However, this would remain a contentious issue in the states, as not all states will move in a direction favorable to undocumented students and states could still act to bar these students from enrolling in public colleges. If Congress fails to enact such legislation, it is highly unlikely that educational opportunity for undocumented students will improve.

## **#10—Sustainability**

The issue of sustainability was elevated considerably in 2008, courtesy of record-high oil prices that peaked in July. The repercussions to higher education were many; some negative—such as the impact of gas prices on commuter students and the costs to universities in running their plant operations, and some were positive; such as increased actions on campuses to spur conservation and redoubled R&D efforts aimed at nurturing new alternative and renewable energy sources.

With a backdrop of high energy prices, greater recognition of the causes behind global warming, and continued conflict in the Middle East, federal and state policy actions in 2009 may accelerate campus sustainability projects and fund campus-based research endeavors while generating so-called green collar jobs in the process.

## **Conclusion**

State higher education policy in 2009 will be affected on many fronts: through repercussions of the national economic recession, by the cascading effect of significant federal legislation passed in 2008 and which will be implemented this year, and through the perennial quest to improve college access and affordability. With diminishing revenue streams in the midst of increasing enrollment demands typical of recessionary periods, state policy and higher education leaders face a daunting task ahead. States will have to raise revenues and/or cut expenditures; assuming that it's more of the latter than the former, it is certain that elevating

public higher education as a state priority will be all the more challenging.

Embedded in the fiscally tumultuous year ahead is a silver lining, however. Sheer economic necessity will drive greater innovation, through new policies and actions at all levels—state, system and institutional. The need to innovate, even while under financial

duress, will lead to improvements in cost efficiency, effectiveness and productivity. The ultimate challenge in 2009 is to contend with current economic conditions, maximize the role of America's public colleges and universities as an integral part of a national recovery, and maintain access to these institutions as a state—and national—public policy priority.

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