

Constructive Innovation: Recapping 2013 Higher Education Legislative Activity in the West

For the first time in years, there was good news for higher education in the West in 2013 as some, though certainly not all, states appropriated more money to postsecondary institutions and looked for ways to avoid steep tuition increases. At the same time, an increased focus on postsecondary accountability and productivity – the idea of improving efficiency and outcomes, which has grown increasingly popular over the years in numerous states – continued to gain momentum during the 2013 legislative sessions. Other policy issues that drew a great deal of interest in 2013 included college affordability and a stronger emphasis on college readiness. Issues to watch included online education and guns on campus. Also notable was the passage of legislation that offers in-state tuition to undocumented immigrants – often a volatile policy debate, particularly in the West. And as always, financing strategies and funding issues took center stage in all Western states. This latest *Policy Insights* brief summarizes the key topics and trends addressed during the 2013 Western legislative sessions and highlights other new and emerging issues to watch for in the region.

Higher education continued to receive significant attention during the 2013 legislative sessions. All 15 Western states and the **Commonwealth of the Northern Mariana Islands** (currently the only active participant of the U.S. Pacific Territories and Freely Associated States, WICHE's newest member), convened legislative sessions in 2013, with **Arizona, California, Nevada, and Washington** holding additional special sessions. Only **Nevada's** and **Washington's** special sessions dealt with higher education issues. In **Nevada**, the legislature agreed to increase funding for the state's Millennium Scholarship, which awards aid to students based on merit. In **Washington**, the House of Representatives reintroduced a bill that failed to pass, but would have awarded state financial aid benefits to undocumented immigrants.

In recent years prior to FY 2013, the constraints in state resources led to a relatively modest focus on higher education, with states forming study groups or creating task forces to gather information on possible future strategies, but providing little additional financial support; indeed, mostly reducing funding. In contrast, the 2013 legislative sessions featured more innovation as states balanced state priorities and budget pressures with student and institutional concerns. By merging long-standing interest in accountability and productivity with ongoing finance and affordability challenges, states in the

West attempted to more actively address access, quality, and success for all students in the region.

Show Me the Money...

During the first half of 2013, state tax revenue increased in the majority of Western states compared to 2012. **California**, for example, saw a 34.9 percent increase in the first quarter and another 27.7 percent jump in the second quarter thanks to an increase in income tax collections.¹ Revenues were also up in **Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, and Washington**. Of these states, **North Dakota** experienced the biggest jump in revenue (74.6 percent in the first quarter, 9.2 in the second) and **South Dakota** the smallest increase (0.3 in the first and 2.3 in the second).² Western states that saw a decline or for which there were no data available include **Alaska, New Mexico, and Wyoming**. In certain cases, though certainly not all, these revenue increases translated into larger state appropriations for higher education in the West in 2013.

State Appropriations. Between FY 2012 and FY 2013, total state fiscal support for higher education nationwide fell by 0.4 percent – an improvement from FY 2011 to FY 2012, which saw a 7.5 percent decline.³ Thanks to an increase in state revenues, many Western states that saw cuts to

their higher education budgets in the past began to invest in postsecondary education once again during the 2013 legislative sessions. While fiscal conditions in the states remain unsettled for FY 2014 and beyond, the recent positive economic news allowed many legislatures to allocate more money to higher education for the first time in several years. **Washington** increased funding support for higher education by 12 percent in 2013, while **Oregon** and **California** approved increases of 8 and 5 percent, respectively. **Colorado**, which cut support for higher education in 2011 by 15.4 percent, increased support in 2013 by 5.4 percent.⁴ Those increases in state funding do not make up for the deep cuts to postsecondary systems over the past five years, but, if sustained, could help to restore support of postsecondary education. In contrast to most Western states, **Wyoming**, which had been one of the few states that preserved or even increased funding during the recession, is notable for having cut support to postsecondary education by 6 percent during the 2013 legislative session.⁵

Tuition and Fees. In an effort to combat rising tuition costs for students attending postsecondary education and make college more affordable, many Western legislatures voted to freeze or cap tuition during their 2013 legislative sessions, helped by an influx of new state funding.

- **California** froze tuition for state residents as part of the state budget that was passed by the legislature and signed by Governor Jerry Brown on June 27, 2013. The first year of a four-year freeze in tuition will be 2013-14, and is currently scheduled to end in 2016-17.⁶ This freeze was made possible by the passage of Proposition 30, a tax increase that was approved by voters in 2012.⁷
- The approval of \$30 million in funding support by the **Montana** Legislature in 2013 (16 percent of the previous year's total higher education budget) allowed the state's Board of Regents to freeze college tuition for two years.
- **Washington** also enacted a tuition freeze after the legislature increased funding for higher education by 12 percent, allowing institutional leaders to rescind a 2 percent hike that had received approval earlier in the year. The increased funding approved by the legislature offset the additional revenue that the tuition hike would have generated for institutions in the state.

Despite the legislative efforts of these states, tuition and fees in other Western states are likely to continue to rise. For instance, although **Colorado** increased appropriations to higher education (as mentioned above), the University of Colorado hiked tuition prices by 8.7 percent, while Colorado State University will see a 9 percent increase in tuition rates.

State Financial Aid. In addition to freezing or capping tuition, some states have also enacted policies designed to increase need-based financial aid. **North Dakota**, for example, created a need-based scholarship program through the passage of SB 237. The scholarships range from \$500 to \$2,000 depending on the student's level of need. **California's** budget establishes the "Middle Class Scholarship" program which cuts tuition costs by as much as 40 percent for students with annual family incomes up to \$150,000. The scholarship will go into effect during the 2014-15 school year.

South Dakota established the "Critical Teaching Needs Scholarship Program" through the passage of SB 233. The law encourages high school graduates in the state to attend and graduate from a postsecondary education in South Dakota with a degree in teaching and then to remain in the state and work in a "critical need teaching area." Similarly, **New Mexico** passed a law that benefits teachers working in high-risk schools. HB 53, also known as the "Teacher Repayment Loan Act," provides for repayment of the principal interest accrued on loans obtained from the federal government for teacher education purposes and seeks to increase the number of quality teachers working in high-need areas of the state.

Another approach to financial aid in the West can be found in **Colorado**, which enacted a tiered approach that provides incentives for retention and completion. HB 1320 awards state colleges and universities a fixed amount of aid for each eligible freshman (\$600) but higher amounts for sophomores (\$800), juniors (\$1,000), and seniors (\$1,200). To promote graduation in four years, the amount of the award would drop again to \$600 if a student enters a fifth year of college. While institutions are not obligated to spend the funds in this way, all have agreed to do so at the time of this writing.

Alternative Financing. The **Oregon** Legislature crafted legislation in 2013 that calls for the study of a plan that would defer tuition for students while they are enrolled in college in exchange for a promise to commit a percentage of their future salary to the state. HB 2838, known as the "Pay Forward, Pay Back" plan, requires the Oregon Education Investment Board, Oregon University System, and Department of Community Colleges and Workforce Development to jointly create a proposed pilot program for future legislative approval.

More Performance-Enhancing Legislation

While the economic picture in many Western states is improving, legislators continue to try to improve efficiency within their higher education systems and tie state support to various institutional performance measures, which are largely driven by the national completion agenda. While the true impact of performance funding is still unclear, particularly in states where a relatively small percentage

of funds are directly tied to outcomes and do not have as much of an influence, “outcomes-based funding fever” has essentially subsumed older accountability discussions into the larger postsecondary finance debate. As states move forward from the 2013 sessions, a greater emphasis on productivity and performance will likely remain a significant component of the higher education landscape.

After eight Western states passed legislation related to outcomes-based funding during the 2011 and 2012 sessions, the trend continued into 2013, with one Western state introducing and two others enacting new outcomes-based legislation.⁸

- With the introduction of SB 1483, **Arizona** proposed to appropriate \$5 million towards the implementation of a performance funding model at the state’s three public universities. Performance measures include an increase in the number of degrees awarded and an increase in the number of credit hours completed. The new funding formula would also give added weight to degrees related to STEM (science, technology, engineering, and math) fields, in addition to other “high-value degrees that are in short supply.” The bill is currently being held in the House.
- The Board of Regents in **Montana** agreed to implement performance funding measures in exchange for increased state funding to cover inflation and employee pay raises over the next two years. The legislature approved \$30 million in new funding during the 2013 session – including an additional \$7.5 million for the Montana University System. The new measures based on progress made toward increasing college completions will go into effect during the upcoming year and continue into 2015-16.
- AB 507, which passed in **Nevada** in 2013, establishes a “Performance Funding Pool” account for the state’s higher education system. Slated to begin in FY 2014, the state will monitor and award funds to public colleges and universities based on the number of degrees or certificates awarded, the number of students who successfully transfer, and the number of underserved students who succeed in postsecondary education.
- The passage of SB 2200 in **North Dakota** created a new outcomes-based model which appropriates funds to colleges and universities based on the number of credit hours completed rather than the number of students enrolled. This moves the state past the planning stage that was established in 2011, when legislation directed the

state’s legislative management chair to appoint an interim higher education committee to study issues affecting higher education, including performance-based funding.⁹

Currently, nine Western states have passed some form of legislation related to outcomes-based funding.¹⁰

Are You Ready?

In addition to the continued policy focus on access, persistence, and completion, many states across the region are increasingly turning their attention to college readiness.

Accelerated Learning Options. In 2013, **Washington** enacted HB 1642 which encourages school districts to automatically enroll students who meet the standard on statewide high school assessments into the next most rigorous level of advanced coursework offered by the high school. Completion of this advanced coursework allows these same students to receive dual credit for both high school and college. Data on student enrollment in dual credit courses will be tracked, and incentives will be provided to high schools based on student performance in specified courses. The legislation further allocates one-time grants in an effort to expand the availability of dual credit courses in the state.

Common Core State Standards. States across the nation began adopting the Common Core State Standards (CCSS) in 2010 following their creation by a joint initiative led by the National Governors Association and the Council of Chief State School Officers.¹¹ The only Western state that has still not adopted the CCSS is **Alaska**.¹² Now that implementation of the standards has begun in earnest in every other state, a number of bills related to the CCSS were enacted during the 2013 sessions (see Table 1).

Utah is unique in that it does not belong to either CCSS consortium – the Partnership for Assessment of Readiness for College and Careers (PARCC) or the Smarter Balanced Assessment Consortium (SBAC) – but instead is trying to develop its own set of college readiness measures and assessments independent of the Common Core. Passed in 2013, SB 175 streamlines higher education assessments in the state and requires all high school juniors to take a college readiness test in order to determine their ability to succeed at the postsecondary level. Students will be assessed in the language arts, mathematics, and science requirements most commonly used at state colleges and universities. **Utah** also passed SCR 5 in 2013, which expresses support for achieving the goal of having 66 percent of **Utah’s** adults hold a postsecondary degree or certificate by the year 2020.

Table 1. Enacted Legislation Related to the Common Core State Standards in the West, 2013

State	Legislation	Purpose
California	AB 86	Provides a one-time \$1.25 billion appropriation to aid local education agencies in the implementation of the CCSS. Also makes new investments in professional development and technological enhancements.
	AB 97	Requires the state superintendant to monitor the quality of the standards-based core curriculum being implemented. Also makes English learners' ability to access the new core content standards a state priority.
	AB 110	In addition to the \$1.25 billion to assist with implementation of the CCSS, another \$1.1 million will be appropriated to improve teaching quality related to the new standards.
	AB 484	Establishes the Measurement of Academic Performance and Progress (MAPP) assessments for the 2013-14 school year, replacing the previous Standardized Testing and Reporting (STAR) assessment. These new standards for math, science, and the English language arts will augment the state's Early Assessment Program administered in the 11th grade until the new assessments addressing the CCSS are developed in 2014-15.
Colorado	SB 87	Makes a supplemental appropriation to the state Department of Education to create the "Colorado Student Assessment Program" aligned with the CCSS.
Hawai'i	HB 200	Appropriates funds for the Department of Education to use to implement a pilot program designed to help the state meet the new CCSS requirements.
Idaho	SB 1200	Provides funding for the "Public Schools Educational Support Program," which includes a portion specifically for professional training and development related to the CCSS in Idaho.
Nevada	AB 259	Requires the P-16 Advisory Council to determine whether or not teachers in the public school system are able to understand and teach the curriculum required by the CCSS.
	SB 288	Requires the superintendent of public instruction to select a standardized, curriculum-based college entrance examination to replace the state's current "high school proficiency test." Also requires the State Board of Education to prescribe the courses of study that include the CCSS subject areas adopted by the board.
New Mexico	HB 2	Provides a special appropriation to state education agencies for the development of statewide formative CCSS assessments.
	SB 60	Provides \$365,000 for the purchase and development of new information technology to support the implementation and assessment of college readiness standards for public schools in Sandoval County.
North Dakota	SB 2102	Aligns statewide achievement tests with the CCSS.
Oregon	HB 3233	Establishes the Network of Quality Teaching and Learning to improve teaching quality, student achievement, and implementation of the CCSS.
Utah	SB 175	Requires school districts and charter schools to administer college readiness assessments and an admissions test that includes language arts, mathematics, and science standards that are most commonly accepted by local universities.
Washington	HB 1812	Extends the January 1, 2012, deadline for the Office of the Superintendent of Public Instruction to issue an estimate of the costs for implementing the CCSS. The report must incorporate public feedback regarding the recommendations to enhance the standards, particularly in math.
Wyoming	HB 91	Extends timelines specified for phase I of the new accountability system established by the Wyoming Accountability in Education Act, which relates in part to the implementation of the CCSS.

In-State Tuition for Undocumented Students

After years of languishing, bills granting in-state tuition benefits to undocumented students passed in two Western states (**Colorado** and **Oregon**), while an additional attempt was made to extend financial aid benefits to undocumented students in another (**Washington**).¹³ As of this writing, 16 states in the nation grant these students in-state tuition benefits, including six states in the West (**California**, **Colorado**, **New Mexico**, **Oregon**, **Utah**, and **Washington**). **California** and **New Mexico** also provide access to financial aid benefits to this same student population.

- After passing legislation explicitly denying in-state tuition to undocumented immigrants in 2006, **Colorado** reversed course and awarded in-state tuition to undocumented students with

the passage of SB 33, commonly referred to as the "ASSET (Advancing Students for a Stronger Economy Tomorrow) Bill." Similar legislation had failed to pass six times in the past decade, including during the 2012 legislative session. According to the bill, students must attend a Colorado high school for three years, graduate from a state high school or obtain a GED, and declare their intent to seek legal immigration status.

- HB 2787, enacted in **Oregon** in 2013, exempts an undocumented student from paying non-resident tuition at a public college or university provided the student has attended school in the United States for at least five years, attended a high school in Oregon for at least three years and graduated, and shows the intention to become a lawful U.S. citizen.

- **Washington** began awarding in-state tuition benefits to undocumented students in 2003.¹⁴ In 2013, the legislature considered HB 1817 – also known as the “Washington Dream Act” – which proposed to award financial aid benefits to those same students. Under the legislation, undocumented immigrants would qualify for the State Need Grant — the state’s largest financial-aid program. The bill was reintroduced and retained in the House during the first special session of 2013.

Guns on Campus

Another controversial issue that dominated several legislative sessions in the West was the question of whether to allow or restrict guns on college campuses. In the wake of the Sandy Hook Elementary School shooting in Newtown, Connecticut and other gun-related incidents, many legislators sought to either restrict or, more often, allow the possession of firearms on college campuses. All proposed bills in the West either failed or were vetoed (see Table 2).

Although no proposed legislation was enacted during the 2013 session, the issue of guns on campus is not likely to go away as the debate over gun control continues to dominate much of the current political landscape at the national and state levels. As evidenced by the increasingly successful push to either extend or restrict broader access to postsecondary education to undocumented immigrants over the past decade, controversial legislation can take years to enact. Supporters on both sides of the issue are likely to keep introducing bills in future legislative sessions.

Table 2. Legislation Related to Guns on Campus in the West, 2013

State	Legislation	Purpose	Status
Colorado	HB 1226	Proposed to ban the carrying of concealed weapons on college campuses.	Failed
Montana	HB 240	Sought to limit the authority of the Board of Regents to restrict firearms on college campuses and allow students and the public to carry guns.	Vetoed
Nevada	AB 143	Known as the “Campus Carry Bill,” sought to allow concealed weapons on college campuses.	Failed
South Dakota	SB 177	Proposed to limit the authority of higher education institutions to regulate the possession of guns on campus.	Failed
Wyoming	HB 105	Known as the “Citizens and Students Self-Defense Act,” the bill proposed to repeal laws restricting the possession of firearms on campuses for persons holding a valid concealed carry permit.	Failed

Other Legislation of Interest

In addition to the major legislative trends, several Western states passed additional postsecondary legislation of note during the 2013 session.

Community Colleges. Two states addressed the role of community colleges during the 2013 legislative session. **Colorado** considered, but failed to pass, SB 165, which would have allowed community colleges in the state to grant four-year degrees in seven high-need fields. With the passage of HB 3341, **Oregon** granted greater flexibility to community colleges in the state in offering job-training coursework, effectively allowing them to compete with for-profit career colleges. Before approval of the measure, for-profit colleges could prevent community colleges from offering courses they deemed too similar to their own. Under the new law, Oregon’s Higher Education Coordinating Commission will devise a process that allows community colleges and career colleges to mitigate potential issues of duplication and other adverse impacts.

Governance. HCR 3047 in **North Dakota** places an issue on the 2014 statewide ballot regarding the future of the State Board of Higher Education. Voters will decide whether the current eight-member, part-time board should be replaced by a three-member, full-time commission. If the resolution passes, the new commission takes effect in July 2015, after the legislature crafts new rules and regulations for the new structure.

Online Education. Despite strong opposition from the University of California (UC) system and faculty members across the state, **California** introduced SB 520, a measure that in part would have allowed the state’s three postsecondary systems to develop massive open online courses, or MOOCs. If it had passed, the legislation would have established the “California Online Student Access Incentive Grant Program” under the administration of the president of the University of California, the chancellor of the California State University, and the chancellor of the California Community Colleges. The goal of the legislation was to allow students greater access to high-demand courses than is currently available. After a great deal of debate, the bill was placed on hold by its sponsor, but it could be re-introduced in 2014 after further review.

State Authorization. As more students take online courses, ensuring quality, providing access, and complying with federal law are all increasingly important needs. In 2013 **Hawai’i** passed SB 46 which requires private, degree-granting postsecondary institutions operating in the state to be authorized by a newly established Postsecondary Education Authorization Program within the Department of Commerce and Consumer Affairs no later than July 1, 2014. In addition to encouraging the development of innovative technology that enables greater access to online education, the legislation further provides students with

more high-quality online course choices and implements a new system of consumer protection designed to serve the interests of students and institutions alike. Along with **Nevada, North Dakota, and Washington, Hawaii's** legislation followed the lead of **Colorado**, which similarly passed legislation in 2012, agreeing to participate in the new Statewide Authorization Reciprocity Agreement (SARA).¹⁵

Conclusion

Fiscal conditions in the states remain uncertain and by no means are the hard times over, but greater appropriations, coupled with tuition freezes and an increased focus on productivity, have allowed for the creation of new approaches to the design and delivery of higher education in the West. The “new normal” is still a reality and likely here to stay, but Western states continue to develop original strategies to improve the overall effectiveness and value of higher education.

Endnotes

¹ Lucy Dadayan and Donald J. Boyd, “Strong Growth in Personal Income Tax Collections in First Quarter of 2013 but Cloudy Fiscal Outlook” (June 5, 2013), accessed 24 July 2013 at www.rockinst.org/newsroom/data_alerts/2013/2013-06-SRR92_data_alert_djb_v2.htm and Lucy Dadayan and Donald J. Boyd, “Temporary ‘Bubble’ in Income Tax Receipts: States Reported Strongest Growth in Personal Income tax Collections Since the Great Recession” (September 18, 2013), accessed 8 October 2013 at www.rockinst.org/newsroom/data_alerts/2013/2013-09-18_Data_Alert.pdf.

² Ibid.

³ Center for the Study of Education Policy, Illinois State University, “Annual Grapevine Compilation of State Fiscal Support for Higher Education: Results for Fiscal Year 2012-2013” (Normal, IL: Illinois State University, January 2013), accessed 24 September 2013 at <http://grapevine.illinoisstate.edu/index.shtml>.

⁴ American Association of State Colleges and Universities, “Fiscal and State Policy Issues Affecting Postsecondary Education” (Washington, DC: American Association of State Colleges and Universities, July 2013), 3.

⁵ Ibid.

⁶ California Department of Finance, “California Budget – Higher Education Summary” (Sacramento, CA: Department of Finance, 2013), 16.

⁷ Support of Governor Brown’s tuition plan by the University of California Regents was contingent on approval of the measure.

⁸ Carl Krueger, *New Approaches to the New Normal: Recapping 2013 Higher Education Legislative Activity in the West* (Boulder, CO: Western Interstate Commission for Higher Education, 2012), 3.

⁹ See *New Approaches to the New Normal: Recapping 2012 Higher Education Legislative Activity in the West*, 3.

¹⁰ The other states are Arizona, Colorado, Nevada, New Mexico, North Dakota, Oregon, South Dakota, and Utah.

¹¹ Initially developed by the National Governors Association and the Council of Chief State School Officers in 2009, the Common Core State Standards seek to better prepare students for college and careers through rigorous content and the application of high order skills aligned with postsecondary and workforce needs. For more information see www.corestandards.org/.

¹² While the state of Alaska has not officially adopted the Common Core State Standards, the Alaska Department of Education aligned state academic standards with the CCSS in 2012 and recently became an advisory member of the Smarter Balanced Assessment Consortium.

¹³ For more information about the legislative history of this student population, see Carl Krueger, *Undocumented Students in the West* (Boulder, CO: Western Interstate Commission for Higher Education, 2012) 5.

¹⁴ Wash. Rev. Code Ann § 28B.15.012.

¹⁵ Along with WICHE, the three other regional higher education compacts (Midwestern Higher Education Compact, New England Board of Higher Education, and the Southern Regional Education Board) have begun establishing a uniform process for accredited degree-granting postsecondary institutions to attain authorization to provide online education outside of their state. For more information, see www.wiche.edu/sara.

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