

State Governance Action Report September 2011

AGB ASSOCIATION OF
GOVERNING BOARDS
OF UNIVERSITIES AND COLLEGES

Ingram Center for Public Trusteeship and Governance



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Association of Governing Boards of Universities and Colleges

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Introduction

The content of this edition of the State Governance Action Report was informed by newspaper reports, online reports, state and institutional Web sites, and conversations with state and higher education leaders. It is current through September 9, 2011. Much of the legislative activity referenced herein comes at a time when state fiscal conditions continue to strain resources. The ramifications of budget cuts from the last three fiscal years have had a direct bearing on many of the proposals and developments described in this report, and it is likely that further changes will occur as states look to reduce spending and streamline government operations.

Activities in the states mentioned within this report revolve around several issues, but most prominent are the inter-related themes of:

- advancing student success by increasing the number of college degree and certificate holders, improving graduation rates, and workforce preparation;
- managing state budgets, instituting performance-based funding, and implementing state-planning imperatives;
- restructuring governance and statewide coordination; and
- state regulation and institutional autonomy.

As we have witnessed since the current economic crisis began, state government leaders in increasing numbers of states will likely consider new structural and legal relationships with their higher education systems or with individual institutions, especially as state funding declines even further as a percentage of institutional revenues. At the same time, statewide governance and coordinating structures will be under increased pressure to leverage performance improvements (of which college degree completion remains primary) and advance overall responsiveness to state and community economic and social needs.

Advancing Student Success

Aligned with last year's observations, the 2011 legislative cycle and the 2012 fiscal year have prompted increased state action on advancing student success. As stated in AGB's 2011 report with the University of Virginia's Miller Center of Public Affairs, [*Front and Center: Critical Choices for Higher Education*](#), in order for states to meet degree attainment goals, decision makers need to ensure that students have access to affordable higher education and that they are prepared for college-level coursework, and colleges need to reduce costs, increase degree productivity, and strategically align academic opportunities with state workforce-development goals.

Guided by the work and momentum of Complete College America, Lumina Foundation, Gates Foundation, the Southern Regional Education Board, the College Board, and the National Association of System Heads, state and higher education leaders are striving to meet their own retention and college completion goals.

This summer, 10 states were awarded \$1 million grants from Complete College America, funded by the Gates Foundation, to increase degree attainment. To date, the following states have announced awards: Arkansas, California, Colorado, Indiana, Kentucky, Oklahoma, and Tennessee. In their applications, states provided various strategies for how they would spend the funds, including building the capacity of regional institutions, focusing on college preparedness, and creating enhanced opportunities for low-income and first-generation college students. Complete College America currently works with an alliance of 29 states that are engaged in its efforts to increase the number of degrees and certificates awarded. These

efforts also mirror the work of the Lumina Foundation, which continues to work in the seven MOA states (Making Opportunity Affordable).

Additionally, July 2011 marked the second anniversary of President Obama's [American Graduation Initiative](#). As this initiative continues, its challenges are recognized by educators trying to improve community college graduation rates and by those aiming to develop expanded partnerships between higher education and industry in order to produce skilled citizens equipped to meet [workforce needs](#).

In early August 2011, another new partnership led by Jobs for the Future (and supported by the Gates Foundation, the Joyce Foundation, and the Open Society Foundation) announced that each of 11 states would receive a \$200,000 grant to redesign and improve community college adult education programs. The goal is to increase the number of adults with specific skills to meet state workforce needs. The program, [Accelerating Opportunity](#), aims to improve adult education by infusing reading and math into core courses while at the same time providing occupational training. Six of the 11 states will receive an additional \$1.6 million each to redesign their programs over a three-year period. Jobs for the Future aims to involve approximately 40 community colleges to reach more than 18,000 students.

Many states are working to advance student success, often rewarding institutions that can achieve identified goals. Texas and Virginia are two states that recently enacted legislation to address these important initiatives.

In **Texas**, [House Bill 3025](#) will require students to submit "degree plans" upon successful completion of 45 credit hours. As stated, a degree plan is a "statement of the course of study requirements that an undergraduate student at an institution of higher education must complete in order to be awarded an associate or bachelor's degree from the institution." Students will not be able to receive a transcript until they file a degree plan with the Texas Higher Education Coordinating Board. Students who started at a community college and transferred to a four-year institution but did not graduate will retroactively receive associate degrees if they completed some courses but not quite the amount needed for a baccalaureate degree. The coordinating board will also reach out to students who started college but did not fulfill final graduation requirements.

In addition, the University of Texas System, one of the nation's largest systems of public higher education, developed a nine-point action plan, [A Framework for Advancing Excellence throughout the University of Texas System](#), to expand the work and productivity of system institutions. The plan was recently developed by the system chancellor and unanimously endorsed by the board of regents. Two key groups in Texas also endorsed the plan, the Texas Public Policy Foundation and the Texas Coalition for Excellence in Higher Education. System goals include but are not limited to expanding medical education and research and championing policies to increase graduation rates. The plan focuses on student success with regard to institutional productivity. Through expanded student advising, student scholarships, and integrated technology, the system hopes to achieve higher levels of student access and success.

Virginia's [House Bill 2510](#), the Higher Education Opportunity Act of 2011, promotes increased degree attainment (100,000 additional baccalaureate degrees by 2015) and workforce development. Officials continue to identify ways that colleges and universities can remain innovative, partner with the private sector, and place more focus on high-demand STEM fields. These initiatives are supported by Governor Bob McDonnell's (R) addition of \$100 million in new funding for higher education.

State Budgets, Performance-Based Funding, and State-Planning Imperatives

According to the State Higher Education Executive Officers' (SHEEO) 2010 [State Higher Education Finance FY2010 report](#), state appropriations made up 58 percent of state, local, and net tuition revenue supporting general operating expenses of higher education in the U.S. for fiscal year 2009 (current dollars). In fiscal year 2010, the amount slipped to 54 percent. All American Recovery and Reinvestment Act monies (federal stimulus funds) expired at the end of fiscal year 2011, and it is likely that fiscal year 2012 state operating support will continue to decline.

Also in the report, it is noteworthy that **32 states experienced declines in state support for higher education from fiscal year 2010 to fiscal year 2011**. Of those, six states experienced double-digit cuts: Missouri (-13.5 percent), Delaware (-12.4 percent), Iowa (-12.2 percent), Minnesota (-11.7 percent), Arizona (-11.6 percent), and Oregon (-10.8 percent).

States like **Iowa** are also experiencing their share of a “misery index,”—consistent cuts over the past three fiscal years. According to a July 2011 report, *World-Class on a Shoestring Budget?*, released by the Iowa Policy Project, the state’s community colleges and its three four-year public institutions have lost over \$400 million (adjusted for inflation) in state funding since 1998. Lead researchers report the potential for costly tuition hikes to affect affordability and students’ ability to pay for college.

In **Minnesota**, the legislature posted its [higher education budget bill](#) in July 2011. After four years of consecutive cuts for higher education, the proposed MnSCU (Minnesota State Colleges and University System) appropriation for the next biennium is lower than the appropriation received in 1999. Since this time, system enrollment has increased by about 50,000 students. The University of Minnesota system is currently slated to receive an amount equivalent to funding in 1998.

The American Association of State Colleges and Universities recently reported the approximate percentage change in fiscal year 2012 state-operating support. [Fiscal and State Policy Issues Affecting Postsecondary Education State Outlook](#) reveals that **36 states will experience declines in funding from fiscal year 2011 to fiscal year 2012**. Thirteen states experienced double digit cuts; the more severe are: New Hampshire (-48 percent), Arizona (-24 percent), California (-23 percent), Washington (-23 percent), Colorado (-21 percent), and Pennsylvania (-18 percent).

With severe budget troubles in the states, many educational leaders (at the state, system, and institutional levels) have been left wondering how they will have the resources and support (financially and politically) to fulfill state and national goals for public higher education.

Performance-based funding and incentives. This legislative cycle, **Arizona, Arkansas, Colorado, Illinois, Massachusetts, Mississippi, Missouri, Texas, Utah, and Virginia** considered or enacted legislation to implement performance-based funding.

In **Arizona’s** 2011 budget, the legislature requested that the Arizona Board of Regents review performance-based funding models and make recommendations to lawmakers by October 1, 2011. System officials are now considering a “[pay-for-performance model](#)” of funding that, if enacted, could be implemented by 2013—allowing Arizona to be the first state to fund *solely* on performance, rather than on the traditional formula heavily predicated on student enrollment. This new model would identify variables, including but not limited to the number of degrees earned at each university, and increases in outside research funding. This funding proposal

had its origins in 2008 when the Lumina Foundation provided funds for what is now known as [Getting AHEAD](#) (or Getting Access to Higher Education and Degrees). In a statement on July 12, 2011, Arizona Governor Jan Brewer (R) [articulated](#) the need for Arizona to remain competitive, saying, "In order for Arizona to compete globally, we must ensure that our students are prepared for and have access to a highly effective and efficient postsecondary education system." Officials believe that the Getting AHEAD program, coupled with the new funding model, will incentivize degree completion and accountability.

Through [Senate Bill 766](#), **Arkansas** enacted new legislation allowing the Department of Higher Education and institutional leaders to develop a new funding formula for colleges and universities that incorporate performance-based criteria. Institutional missions, along with the following metrics, will be considered: student retention, course completion, and credentials awarded, as well as an emphasis on high-demand programs, research activity, and the number of graduates from underserved populations. It is likely that for the first year, 5 percent of state appropriations will be outcomes-based; for the years following, the amount of outcomes-based appropriations will increase until the 2018 academic year, when the percentage of outcomes-based funding will reach its maximum level (25 percent). If all funding metrics are approved, they will be implemented for the 2013 academic year. The department will present the approved funding formulas to the legislature by December 31, 2011.

Colorado [Senate Bill 52](#) also enacted incentives for colleges and universities to meet identified performance measures in the context of a new state master plan for higher education. The new plan will be submitted to the legislature on or before September 1, 2012. As stated in the legislation, the Commission on Higher Education, the state's coordinating board, and the Department of Higher Education will consider how the state can increase the overall number of associate and career/technical certificates and baccalaureate degrees to provide support for economic development and a well-educated workforce. As in many states implementing performance- or outcomes-based funding, the commission will collaborate with leaders from each institution to generate appropriate performance metrics. The metrics will be implemented in the 2016 academic year if state appropriations meet or exceed \$706 million. If this appropriation is met, 8 percent of funding will be performance-based. The commission and the Department of Higher Education would then provide an assessment of how well each institution fared with regard to the agreed-upon methods of evaluation, taking into account institutional missions and program priorities for workforce development.

In **Illinois**, Governor Pat Quinn (D) signed [House Bill 1503](#) instituting performance-based funding to achieve state goals for public higher education. The Illinois Board of Higher Education, the state's coordinating board, will form a team of business leaders, state officials, and education leaders to create a new funding formula based on benchmarks of achievement; incentives will be geared toward increases in degree completion and graduation rates. "When it comes to the education and graduation of our students in college, we must demand excellence," [said](#) Quinn. "This new law raises the bar for our universities to ensure we are meeting the needs of our students so they have a better opportunity to graduate and find meaningful employment."

Massachusetts Governor Deval Patrick (D) [announced](#) the new Performance Incentive Fund (PIF), a competitive grant program for public colleges and universities. The PIF is part of the Vision Project, the state's master plan for higher education. Specially, \$2.5 million was set aside to reward public institutions for increasing graduation rates, implementing workforce preparation initiatives, and working with state officials on other goals for public higher education.

Eighteen out of 29 institutions won grants to fulfill work in areas of: college readiness, student success, student learning, workforce preparation, and closing achievement gaps. Many initiatives focus on graduation rates, and revamping science, technology, engineering, and math programs. An external review panel evaluated institutional proposals and the selected institutions include eight universities and 10 community colleges.

Depending on the scale of the program/initiative to be implemented, each institution will receive between \$53,800 and \$233,417 to develop and implement its programs to boost productivity and innovation.

Through [House Bill 875](#), **Mississippi** also enacted legislation to implement new funding formulas based on mutually agreed-upon institutional measures for success. As stated, the state's Education Achievement Council was created by the legislature in 2010 to establish education achievement goals for the state, monitor and report on the state's progress toward these goals, and prepare an annual report card compiled from the annual reports submitted by each institution and community and junior college in the state. This council, composed of both education leaders and legislators, will present its funding recommendations to Governor Haley Barbour (R) by November 1, 2012. The recommendations his will be reviewed and ultimately considered during the 2013 legislative session.

In late August 2011, **Missouri** Governor Jay Nixon (D) convened his annual higher education summit, attended by presidents, provosts, governing board members, state lawmakers and other higher education leaders. They were in attendance to hear the governor explain his preliminary framework for funding public colleges and universities—a performance-based funding formula tying appropriations to state and institutional goals. "This will move us away from a system of spending money based solely on what an institution has received in the past, to a system where we invest money in those institutions that are meeting their goals and whose students are reaching their potential," Nixon [said](#) to the Kansas City Star on August 25. According to the same news report, a newly created task force comprised of leaders from both the two- and four-year sectors will create recommendations and metrics for evaluating performance. The recommendations will ultimately be presented to Nixon with the hope that the new formula and metrics will be implemented in fiscal year 2013.

In **Texas**, [House Bill 9](#), the Higher Education Outcomes-Based Funding Act, states that the Texas Higher Education Coordinating Board will collaborate with institutional leaders to develop performance metrics for each institution. The newly enacted legislation allows up to 10 percent of state appropriations for performance-based funding. Similar to other states, institutions could be rewarded differently based on the students they serve and the specific degrees/certificates they provide. Some funding incentives could be based on the number of "high-risk" students enrolled, the number of students that complete developmental/preparatory courses, and the number of degrees awarded in high-demand STEM areas. The coordinating board will present its recommendations and evaluations of funding models to the legislature. This act took effect on September 1, 2011.

Through **Utah's** [Senate Bill 97](#), the state enacted legislation to examine performance-funding models tied to state appropriations. Ultimately, the funding model that is implemented will be guided by the unique mission of each institution and its role in fulfilling state plans for higher education, especially with regard to workforce demands. As stated in the legislation, institutional leaders and the Utah Board of Regents will consider "mission-based funding" using enrollment growth and strategic priorities designed to improve the availability, effectiveness, or quality of higher education in the state.

Lastly, in **Virginia**, the state's [Higher Education Advisory Committee](#), created by the Higher Education Opportunity Act of 2011, will continue to work on performance-based funding formulas and ways to improve need-based student-aid programs. As stated in the legislation, the performance-based budget formula includes some of the following targeted economic and innovation incentives: increased degree completion in a timely or expedited manner; improved retention and graduation rates; degree production in STEM fields and other high-need areas; public-private partnerships and collaborations; optimal year-round utilization of resources and other efficiency reforms designed to reduce total institutional costs/expenditures; technology-enhanced instruction, including course redesign and resource sharing among institutions; enhanced community college transfer agreements; and evaluation of maintenance-of-effort initiatives.

Faculty and performance-based pay. Another policy item that is relevant to performance-based funding discussions, but separate in that it relates to salaries and employee compensation is faculty-performance pay. In **Texas**, the University of Texas and Texas A&M University systems have been debating approaches to compensate faculty for student success. With the support of Governor Rick Perry (R), the Texas Public Policy Foundation has promoted a plan that has increasingly gained attention as different facets of it are debated by colleges and universities. One controversial component of the *Seven Breakthrough Solutions* bases faculty compensation (and tenure) on student evaluations, retention, and graduation rates.

Intrigued by the foundation's plan in Texas, **Florida** Governor Rick Scott (R) is exploring a performance-based compensation framework for faculty at public colleges and universities. Governor Scott [shared](#) his interest in these ideas with potential candidates for the governing boards of Florida's public institutions. The United Faculty of Florida, the state's faculty union, does not endorse the governor's agenda for faculty-performance pay.

Restructuring Governance and Statewide Coordination

The most interesting proposals and legislative activities on higher-education governance coordination and restructuring came out of **California, Connecticut, Louisiana, New Jersey, New York, North Dakota, Oregon, Rhode Island, and Washington.**

California, New Jersey, and Washington eliminated their statewide higher education coordinating and advisory boards, while North Dakota and Rhode Island considered legislation to merge their statewide higher education and K-12 boards. Identifying a need for comprehensive statewide coordination, Oregon passed legislation to enact a new Higher Education Coordinating Commission.

In **California**, through a line-item veto, Governor Jerry Brown (D) eliminated the state's advisory board, the [California Postsecondary Higher Education Commission](#) (CPEC). CPEC's major responsibilities were to develop a statewide plan for postsecondary education and advise the governor and legislature on policy and budget priorities. CPEC was once a vital agency that helped the state's three higher-education systems, the governor, and the legislature discuss complex policy issues. Considering the loss of this state agency, continuing challenges related to college preparation, affordability, participation, completion, and finance, the rewriting of the [master plan](#) for higher education in the face of major budget reductions, and continued challenges to the state's three college and university systems, this is a critical time for public-higher-education leadership in the state.

In **Connecticut**, Governor Dannel Malloy (D) followed through with the recommendations of a [working group](#) for higher education and a bi-partisan [Legislative Oversight Committee](#) to restructure public higher education governance. The state's Legislative Committee examined higher education governance and the administrative functions of the Connecticut State University System (CSUS), ultimately recommending the elimination of the system office. This recommendation was a result of many discussions and higher education studies noting that a change would provide significant cost savings and efficiencies. Starting July 1, 2011, the final enacted legislation eliminated the Department of Higher Education and merged CSUS with the community colleges, creating a newly developed board, the Connecticut Board of Regents for Higher Education. As a consequence, Connecticut no longer has a free-standing statewide coordinating entity. The restructuring did not affect the University of Connecticut, or its board of trustees.

In **Washington**, Governor Christine Gregoire (D) signed legislation eliminating the state's Higher Education Coordinating Board effective June 30, 2012. The governor proposed merging the state's K-12 board and the Higher Education Coordinating Board into a Department of Education to cut costs and create an integrated system of education. As a result of legislative support for [Senate Bill 5182](#), a state higher-education steering committee was created. It is charged with making recommendations regarding public higher-education governance prior to the 2012 legislative session.

North Dakota also presented policies to merge the state's K-12 and higher education boards. Since its introduction, many education leaders opposed the legislation, [House Concurrent Resolution 3046](#), arguing that a single board could not effectively and efficiently govern both K-12 and public higher education. Although the bill passed the House, it did not pass the Senate.

In **Rhode Island**, a proposal to merge the state's Board of Regents for Elementary and Secondary Education with the Board of Governors for Higher Education was not enacted. [House Bill 6177](#) aimed to establish a comprehensive Board of Regents for Education to streamline the coordination of education in the state and to provide cost savings. If this new agency were established, the board would appoint a commissioner to lead this overarching state agency, which would work with officials to create a master plan for education in the state.

One of the most comprehensive sets of restructuring proposals and legislation took place in **Oregon**. In July 2011, Governor John Kitzhaber (D) signed [Senate Bill 242](#) and enacted measures to restructure higher education. As stated in the bill, the Higher Education Coordinating Commission (a new entity of the Oregon Students Assistance Commission and Office of Degree Authorization) will develop state goals and associated accountability measures for public higher education. The commission will also develop a strategic plan for achieving state higher-education goals, identifying priority areas for attention and taking into consideration the contributions of the state's independent institutions and other organizations dedicated to the public agenda for education. The bill states that goals should include but not be limited to: increasing educational attainment; increasing the state's global and economic competitiveness; and ensuring affordable access for qualified in-state students at college and universities.

The new coordinating commission consists of 15 members (including two students) appointed by the governor. One member from each congressional district will be appointed, along with at least four members from the business sector. A member of a district school board will also be appointed. As stated in the legislation, the governor shall solicit recommendations from the speaker of the House of Representatives for at least three members and from the president of

the Senate for at least three members. The term of office for each member is four years; the term for students is two years. Members serve at the pleasure of the governor.

Lastly, Oregon [Senate Bill 909](#) focuses on Pre-K-20 education and will ensure proper state planning to provide educational quality and to prepare students for college. (*Note: Additional legislative activity for Oregon is listed in the section on regulation and autonomy.*)

New Jersey is another state that has studied public-higher-education governance at length over the past few years. By [Executive Reorganization Plan No. 005-2011](#), Governor Chris Christie (R) eliminated the Students Assistance Commission, Office of Degree Authorization, and the state's Commission on Higher Education. This plan took effect in August 2011. Governor Christie also appointed the state's first secretary of higher education. Although not confirmed by the legislature before the end of the session, it is likely that the new secretary will be confirmed when the legislature reconvenes. The secretary will serve on the governor's cabinet and provide guidance regarding how to streamline education for greater efficiencies. The secretary will also take on the responsibilities previously held by the Commission on Higher Education.

Despite ongoing discussions about coordination and governance in **Louisiana**, two legislative proposals failed to gain traction. The first was to merge the Southern University at New Orleans (SUNO) with the University of New Orleans (UNO). This consolidation was considered for quite some time; however, it raised several concerns since it involved merging a historically black college and university (HBCU) with a predominantly white institution.

The second major policy discussion involved merging the state's five higher-education boards into one governing board. Currently the five boards include: the University of Louisiana System, Louisiana Community and Technical College System, Louisiana State University System, Southern University System, and the Louisiana Board of Regents, the state's coordinating board. Governor Bobby Jindal (R) reported that [House Bill 391](#) (a constitutional amendment) would create a more streamlined structure for education and promote comprehensive approaches for degree completion. Proposed twice before in the past five years, House Bill 391 did not pass. The state, however, continues to study public higher education governance through [House Concurrent Resolution 184](#). This resolution established an 18-member commission to provide recommendations regarding state governance and coordination. This commission is composed of educational leaders and elected officials and it is likely that a single, consolidated board will be examined, again.

In **New York**, the State University of New York System (SUNY) is developing "[Campus Alliance Networks](#)," allowing campus presidents from all sectors, community and technical colleges, and research universities, to collaborate with system administrators to streamline and share core services, including: academic resources, information technology, human resources, and procurement. While merging top positions has been proposed, all 64 campuses will remain open, and students will be able to receive instruction and other support from colleges throughout the system. This sharing of services is intended to provide economies of scale and significant cost-savings that will be reinvested back into high-demand academic programs.

In response to the system's plan, on September 7, 2011, Sen. Patricia Ritchie (R) introduced a [bill](#) that would require each SUNY institution to have its own president, converse to the SUNY plan to merge the presidencies of six institutions. SUNY officials [stated](#) concern regarding this or other potential laws that could determine how the system selects presidents.

Community College Campus Mergers. **North Carolina's** legislative and nonpartisan Program Evaluation Division, the research entity of the General Assembly, released a [report](#)

recommending the consolidation of several of the North Carolina Community College System's 22 institutions. The report suggests a cost savings of \$5 million by merging smaller community colleges (institutions with enrollments under 3,000) with larger ones. This proposal was not received well by community-college system leaders. If implemented, although no physical campuses would close, institutional boards of trustees, and campus administrations would be merged.

Regulation and Autonomy

Spurred by spiraling fiscal conditions, some public university systems and institutions are advocating for greater autonomy and flexibility to promote efficiencies that will save time and money. With a realization that reduced funding levels and budget cuts will continue, colleges and universities have pursued (or are pursuing) policies related to tuition flexibility, administrative operations, capital outlay, carry-over budget authority, procurement, and human resources.

Regulation and performance. In **Ohio**, the chancellor of the board of regents proposed the creation of "[enterprise universities](#)," which would allow the state's 14 public institutions to receive some level of tuition flexibility and autonomy on some 50 mandates and regulations if institutions agree to certain performance benchmarks and set aside 10 to 20 percent of state appropriations for in-state, merit-based student scholarships. As stated in the chancellor's [news release](#), "The Enterprise University Plan, in concert with the tuition cap and the three-year degree program, is aimed at giving universities freedom to innovate while helping keep university costs manageable for Ohio families." The plan was the result of the legislature tasking the chancellor with developing a plan for designating public institutions of higher education as charter or enterprise universities. The chancellor submitted his proposal to the general assembly and to Governor John Kasich (R) in August 2011 to be debated in the months ahead.

In **Oregon**, on January 1, 2012, the Oregon University System (OUS) will be classified as a public university system rather than a state agency, allowing the system office new flexibility to better manage its operations and investments. An equally important outcome is that tuition dollars will not be reallocated for other state priorities; the money will be invested in institutional accounts through carry-over budgeting authority. It is also noteworthy that the interest earned from tuition will be used for student-financial aid and other scholarships. Four business associations heavily supported this [legislation](#), along with the chancellor of the Oregon University System, and institutional presidents. The bill also received legislative support, as the new flexibility comes with performance measures related to degree attainment and state workforce needs, addressing ways to grow the state's economy.

In **Wisconsin**, a controversial [proposal](#) to separate the University of Wisconsin-Madison from the University of Wisconsin system failed, and Madison will continue to operate under the leadership of the University of Wisconsin System Board of Regents. The governance proposal contained language to provide the state's largest university with full autonomy, led by its own local board of governors.

The public-higher-education debate led to the creation of a 17-member task force appointed by legislative leaders and Governor Scott Walker (R) to study several issues including the structure of public higher education. The task force will study ways to centralize the authority of state government and the purposes and responsibilities of the system board as compared to local boards (if the latter were to be established). The task force will release its recommendations to the legislature by January 1, 2012.

Concurrent with the creation of the 17-member taskforce, UW System President Kevin Reilly appointed an advisory committee to study higher education governance models. The committee's recommendations are in the new report, [A Model for New Change within the University of Wisconsin System](#). The committee's charge was to evaluate the service of the UW System and advise the president. The committee included institutional leaders and members of the UW Board of Regents.

At the forefront, Governor Scott Walker's (R) budget plans require the system to reduce its operating budget by \$2.4 million for two years. This requires the system to increase efficiencies and economies of scale.

On September 8, 2011, President Reilly and the board of regents [endorsed](#) the committee's 21 recommendations centered on distribution of authority, responsibility, and accountability; streamlining operations; setting priorities; advocacy; and transparency. These recommendations will form what the committee refers to as the "Entrepreneurial Universities/Effective System" model. Institutions will have more flexibility regarding academic programs, hiring, and institutional finances. Chancellors will continue to work with the president as they will serve on his cabinet, providing information to both the president and board of regents as needed.

Louisiana focused on ways to provide some flexibility for institutions, passing legislation that has become known as the [Grad Act 2.0](#), an addition to the Grad Act that was passed in 2010. Public colleges and universities now possess greater authority over their own contracting, purchasing, and budgeting/financial investments if they demonstrate successful completion of identified performance measures. It is important to note that there are varying levels of flexibility (base level, intermediate level, and high level) given to institutions based on their performance and ability to achieve metrics for student retention and graduation rates. Governor Bobby Jindal's division of administration grants these levels after the Louisiana Board of Regents, the state's coordinating board, determines if performance benchmarks are met or successful improvements are made.

Also recognizing the need and benefits for some institutional flexibility, Governor Gregoire of **Washington** introduced legislation providing tuition flexibility to colleges and universities. [Senate Bill 5915](#) grants institutional governing boards the authority to set tuition, a recommendation from her [Higher Education Funding Task Force](#). In return for this flexibility, it is likely that there will be more accountability measures, which could include institutional performance plans aligned with state goals and priorities for public higher education, specifically incentives for degree completion.

In **New York**, some of the State University of New York's (SUNY) goals for addressing predictability for tuition were met. Governor Andrew Cuomo (D) signed [Senate Bill 5855](#), requiring the SUNY Board of Trustees to approve and submit a master tuition plan with tuition rates for resident-undergraduate students over the course of a five-year period, 2011 to 2016. The bill requires the state to appropriate general-fund operating support in an amount equal to or higher than the appropriation from the previous fiscal year (except in cases of financial exigency declared by the governor, at which point the minimum appropriation clause may not apply).

Operational flexibility and transparency. In **South Carolina**, Governor Nikki Haley (R) signed [Senate Bill 172](#), alleviating some of the bureaucratic processes involved with building projects. Projects costing \$500,000 or more will no longer be required to go through a six-step planning

process that involves the participation of three state agencies. A similar approach was applied to purchasing; the threshold was increased to \$10,000. If a college or university exceeds projected costs, the Commission on Higher Education, the state's coordinating board, is able to approve the use of additional funds as needed. While this legislation provides some regulatory relief, it also increases reporting by requiring that public institutions provide spending reports of state funds on their Web sites.

In **Rhode Island**, [House Bill 6107](#) was introduced to reform competitive bidding. The legislation would have exempted the University of Rhode Island, Rhode Island College, the Community College of Rhode Island, and the state's Board of Governors for Higher Education from the competitive bidding process for all purchases that use state funds of up to \$2 million or more for research or research-related activities. The legislature recommended that this bill be held for further study, and it is likely that it will be considered during the next legislative session. Additionally, [House Bill 6105](#) was a solid effort to achieve the same success as the Oregon University System. The legislation would have modified the Rhode Island Board of Governors for Higher Education classification from "public agency" to university system; however, the bill was not enacted.

Institutionally Related Foundations

In **California**, Senator Leland Yee (D-San Francisco) pushed for greater transparency for California's institutionally related foundations. Senate Bill 8, also known as the "[Transparency Act](#)," passed the Senate, and Governor Jerry Brown (D) signed it into law on September 6, 2011. It would ensure that the auxiliaries and foundations of the University of California System, the California State University System, and the community college system adhere to state public records laws beginning January 1, 2012. Under the bill, all financial records and contracts would be subject to public disclosure. (*Note: former California Governor, Arnold Schwarzenegger (R), vetoed two similar bills during previous legislative sessions.*)

Uniform Management of Institutional Funds Act. The [Uniform Prudent Management of Institutional Funds Act](#) (UPMIFA) law provides institutions with greater flexibility in spending from endowment funds that have fallen below the "historic dollar value" (HDV) of the original gift. UPMIFA eliminates the concept of HDV, allowing institutions and foundations to make distributions from these "underwater" funds. For further information regarding UPMIFA and underwater endowments, refer to AGB's 2010 survey report, [Spending and Management of Endowments under UPMIFA](#), conducted by AGB in partnership with Commonfund Institute and NACUBO.

In 2011, Florida enacted UPMIFA policies, bringing the number of states with the legislation to 48, plus the District of Columbia. Mississippi introduced UPMIFA, but the bill was not enacted. If Mississippi passes this legislation in 2012, Pennsylvania and the territory of Puerto Rico will be the remaining state and territory that have not adopted UPMIFA policies.

Closing Observations

As the nation's economy remains uncertain, constrained state budgets and revenue declines will require state officials to make the best use of limited resources. Like state government, public higher education will also be asked to operate more efficiently and effectively (by cutting expenditures and educating more students at lower cost). Many of the proposals and much of the legislation mentioned in this report aim to accomplish these goals, but with strings attached. As state governments continue to provide greater flexibility to public institutions and university

systems, they will continue to ask for measures of accountability and performance. Many of these requests and performance benchmarks fall on the shoulders of statewide coordinating and governing boards and are influencing the goals and strategies of statewide master plans and public agendas for higher education.

Ingram Center Policy Database

AGB's Ingram Center for Public Trusteeship & Governance releases its new [Higher Education Governance Policy Database](http://agb.org/ingram/policy/search) (<http://agb.org/ingram/policy/search>), focused on governance proposals and legislative activity in the states. All policies reported in State Governance Actions Reports (SGAR) can be found in this database—a hub of current governance information affecting public colleges, university systems, and institutionally related foundations. Enacted legislation and proposed policies are searchable by state, year, policy status (enacted or not enacted), and the following nine policy areas:

- Board Selection, Composition, and Operations
- State Strategic and Master Plans
- Conflict of Interest and Ethics
- Federal Policy Developments Affecting States
- Accountability, Autonomy, and Regulation
- Governance and State Coordination
- Institutionally Related Foundations
- P-20 Coordination
- Tuition and Finance Policy



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