

SHEEO Information Request
Provisions of funding to maintain a system of public institutions of higher education
December 12, 2014

To Finance Officers:

Does your state constitution include provisions that describe sufficiency of funding to maintain a system of public institutions of higher education? If so, what are they?

You may respond, preferably by December 12, to Alan Edwards (alanedwards@schev.edu), Director of Policy Studies, State Council of Higher Education for Virginia and asanchez@sheeo.org . We will be happy to share the results of this inquiry at www.sheeo.org .

State Responses

Alabama	Alabama does not have anything like this in the state constitution or statute to my knowledge.
Arizona	Below is Arizona’s constitution language regarding funding to maintain public institutions. Arizona constitution (Section 1 of Article XI) specifies that the public school system consists of everything from kindergarten through universities. Section 10 of Article XI is unique in the Arizona Constitution in terms of addressing funding sources and specifying funding levels: <i>“The revenue for the maintenance of the respective state educational institutions shall be derived from the investment of the proceeds of the sale, and from the rental of such lands as have been set aside by the enabling act approved June 20, 1910, or other legislative enactment of the United States, for the use and benefit of the respective state educational institutions. In addition to such income the legislature shall make such appropriations, to be met by taxation, as shall insure the proper maintenance of all state educational institutions, and shall make such special appropriations as shall provide for their development and improvement.”</i>
Arkansas	Our state constitution does not include any provisions for sufficiency.
Connecticut	None in Connecticut.
Florida	Florida does not have anything in the state constitution that describes sufficient funding for higher education, but it does for k-12.
Georgia	The response for the Board of Regents of University System of Georgia is that the Georgia Constitution only indicates that the appropriation to institutions is in a lump sum to the Board which allocates at its discretion. No language is found regarding sufficiency of funding or funding requirements.
Hawaii	Hawaii constitution does not have provisions that describe sufficiency of funding to maintain a system of higher education.
Idaho	Idaho’s constitution does not address funding of higher education. It establishes the State Board of Education as the Governing Board of Regents for the University of Idaho. The State of Idaho’s Constitution does not contain a provision regarding funding for higher education. The only provision regarding school funding reads “it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools,” which has been interpreted to apply only to K-12.

Iowa	No. Neither the Iowa Constitution nor the Iowa Code guarantees a set level of funding to the State universities.
Kansas	<p>Kansas does not have a constitutional provision for sufficiency of funding for higher education, though it does for K-12. Below are the relevant Kansas Constitutional provisions, both found in Article 6.</p> <p>§ 1. Schools and related institutions and activities. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.</p> <p>§ 6. Finance (a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature. (b) The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision. (c) No religious sect or sects shall control any part of the public educational funds.</p>
Kentucky	KY does not have any constitutional provisions pertaining to higher education. We do have statutory language calling for an adequately funded system of post secondary education. We have neither, in fact: no system and no adequate funding.
Louisiana	Louisiana does not have any provisions that describe sufficiency of funding for higher education.
Minnesota	<p>In 1983, Minnesota adopted a state appropriations funding policy of attempting to provide at least 67 percent of the combined tuition and fee and state appropriations revenue for both public systems of higher education (Funding Policy, Minnesota Statutes, Section 135A.01, 2007). Neither the state constitution nor legislative statute or law outlines minimum funding level necessary to sufficiently maintain the public higher education system in Minnesota.</p> <p>It is in statute, but the funding level has not been obtained over the past several years.</p>
Missouri	No such language in the Missouri constitution.
Nebraska	Nebraska has no such constitutional provisions.
Nevada	Nevada Constitution (Article 11, Section 6) does address funding by legislative appropriation, but does not describe sufficiency or otherwise determine levels. Please let me know if you need additional information. <i>1. In addition to other means provided for the support and maintenance of said university and common schools, the legislature shall provide for their support and maintenance by direct legislative appropriation from the general fund, upon the presentation of budgets in the manner required by law.</i>

New Jersey	NJ does not have such provisions in its constitution.
New Hampshire	There is no constitutional obligation to fund public higher education at any level in New Hampshire. Interestingly, there is a provision in the constitution to “adequately” fund grades 1-12, and the definition of what constitutes “adequate” has been the source of numerous law suits... Hope this helps.
North Carolina	<p>Article IX of the North Carolina Constitution contains two sections that are responsive to this inquiry. Section 8 obligates the North Carolina legislature to “maintain a public system of higher education, comprising The University of North Carolina,” and such other institutions of higher education that the legislature may deem wise. Section 9 provides that the “benefits of The University of North Carolina,” and such other public higher education institutions shall be extended to the people of North Carolina “free of expense” as far as practicable. These two sections can be seen as relating to sufficiency of funding, given the power and authority vested in the legislature to establish the State budget and appropriate funds, combined with the responsibility to see to the “maintenance and management” of the University of North Carolina.</p> <p>Let me know if you have any questions. Here are the sections:</p> <p>Sec. 8. Higher education. The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.</p> <p>Sec. 9. Benefits of public institutions of higher education. The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.</p> <p>http://www.ncga.state.nc.us/Legislation/constitution/article9.html</p>
North Dakota	<p>From ND. With regard to funding, the state constitution states:</p> <p><i>It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.</i></p>

Ohio	Ohio does not have a provision in its budget regarding the sufficiency of funding for higher education.
Oregon	Oregon has a constitutional provision regarding adequate funding for K-12 education but not for higher education.
Pennsylvania	No for Pennsylvania.
Tennessee	Tennessee does not have any constitutional provisions for higher education funding.
Texas	Texas does not have anything like that, but I would be very interested in any results. We have been asked numerous time “How much should a degree cost?”
Washington	<p>Short answer: Washington State’s constitution does not describe a level of sufficiency or adequacy for public higher education funding.</p> <p>Context: the state constitution has a very strong, some say unique, directive in Article IX that says that an “amply funded” K-12 system must be the “paramount duty” of the legislature. Recent state Supreme Court decisions have held that the Legislature has failed this constitutional test, and subsequent to that, failed to make adequate progress in remedying this situation. Thus, the state Supreme Court has held the Legislature in contempt based on article IX.</p> <p>In Washington, there’s no formula funding for higher education. Institutions (and the Comm./Tech. college system) receive appropriations in the budget bill. There’s always discussion about trying to expand article IX to include higher ed, or arguments that say that some level of higher education is as important now as a “common school” education was when the state Constitution was written, but the courts have never interpreted it that way, and thus there’ve been no legal challenges to state funding cuts in higher education (which were high, in percentage terms, during the recent recession). Given the importance of article IX for k-12, some still argue that there’s an equivalent, if lesser, obligation for higher ed (see this recent law review article: https://www.law.uw.edu/wlr/online-edition/online-edition/washington-states-mandate-the-constitutional-obligation-to-fund-post-secondary-education/), though again this has not been approved/tested in court.</p>
Wyoming	<p>Wyoming's constitution has a couple provisions:</p> <p>One related to establishment::</p> <p>Art. 7, Sec. 1: The legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary.</p> <p>and, funding:</p> <p>Art. 7, Sec. 16: The university shall be equally open to students of both sexes, irrespective of race or color; and, in order that the instruction furnished may be as nearly free as possible, any amount in addition to the income from its grants of lands and other sources above mentioned, necessary to its support and maintenance in a condition of full efficiency shall be raised by taxation or otherwise, under provisions of the legislature.</p>