Analysis of America's College Promise Act and Implications for Public Four-Year Universities

For the first time since President Obama proposed his America's College Promise plan, which includes a federal-state partnership to achieve free community college, Democrats have a political chance of enacting such a proposal.

The policy could have monumental impacts on public institutions that would vary greatly based on many criteria. Changes could be seen in enrollment, state investment, and significant changes in affordability in comparison to other institutions within the state depending on HBCU or MSI status. Since the 2015 roll out of the higher education platform, The America's College Promise Act, H.R. 2861/S. 1396, has been introduced in Congress and free community college has been a constant in Democrats' federal policy agenda.

While some Democrats would prefer to go farther with a program that contains an affordability guarantee that encompasses public four-year institutions, all plans have at a minimum included free community college. During the presidential campaign, then candidate Joe Biden proposed free community college and tuition-free public four-year education for students from families making below $125K. Unfortunately, within President Biden's American Families Plan, he reverts to a federal-state partnership aimed only at encouraging states to achieve free community college. The plan includes additional measures to support affordability at HBCUs and MSIs.

As the language in the American Families Plan provides just a broad, general framework, it is reasonable to look at the America's College Promise Act legislation in Congress, which has the support of the Chairs of the House and Senate Education Committees, to project the likely policy that will be included in a Democratic infrastructure package if inclusive of a free community college plan. There are three primary components of the America's College Promise Act which are the focus of APLU's summary: the federal-state partnership to achieve free community college, maintenance of effort (MOE) requirements to hold states accountable for minimum levels of investment in higher education (two and four-year), and a federal program to partially subsidize tuition at HBCUs and MSIs. The bill also includes a fund to support student success efforts, which we do not summarize in this document.

Federal-State Partnership to Achieve Free Community College

The America's College Promise Act contains a federal-state partnership to achieve free community college within participating states. The federal government would pick up 75 percent of the costs with states required to contribute the remaining 25 percent. The federal subsidy is determined per student and based on the average resident tuition and fees at community colleges nationwide, thus creating variances based on existing tuition and fee levels. The legislation includes a different formula for grants to tribes. To participate, states must submit an application to the U.S. Department of Education providing assurances that each community college will waive tuition and fees as well as commitments that the colleges will provide a delineated scope of academic and student support services. States must describe how they will support scaling the practices, consider to the "extent practicable" changes to state law to enable more community college students to be eligible for means-tested federal and state benefits, enhance transfer pathways to four-year institutions (states would need to ensure degrees fully count as credit for two years at all public institutions in the state), and increase alignment with K-12. The legislation provides greater detail on how states and community colleges are to meet these requirements. Community colleges are defined as public institutions in which the highest degree predominantly awarded to students is an associate's degree.

Although the federal government would provide substantial possible funding to states, given the experience with the Affordable Care Act Medicaid expansion, we should expect that state participation may not be universal.

Maintenance of Effort Requirements

One of the concerns APLU expresses about federal-state partnerships only focused on increasing state funding of community colleges is the likelihood that such funding will be at the expense of funding of public four-year institutions, whether actual cuts or slower growth, rather than overall increasing investment in public higher education.

In an attempt to address such concerns, the sponsors have added maintenance of effort (MOE) requirements in the legislation meant to ensure states continue to provide a minimum level of funding for higher education. In order to participate in the federal-state partnership, states must agree to

a) State fiscal support for higher education must meet or exceed the per FTE levels of the average of the three prior fiscal years
b) Financial support provided for operational expenses of public four-year institutions (excluding research and development and capital expenses) must meet or exceed the average levels of the three prior fiscal years
c) Support for need-based financial aid must meet or exceed the average levels of the three prior fiscal years

The bill stipulates scenarios in which the U.S. Secretary of Education shall automatically provide states relief from the MOE requirements. Additionally, there are economic triggers pegged to unemployment rates for automatically increasing the federal share of the federal-state partnership and reducing states' obligations. While there are tiered levels of relief, to receive the baseline relief, states must just establish that they were in an "elevated unemployment period at any point in the fiscal year" or such conditions exist nationally. "Elevated unemployment period" is defined as a consecutive three month period in which the unemployment rate is at least 0.5 percent above the lowest unemployment rate for the 12 months preceding the three month period.

If a waiver is granted, there is a provision which would still hold states accountable for maintaining proportionately of investment in higher education as compared to the overall state budget. States may cut higher education but not in a disproportionate manner as compared to overall reductions of the state budget.

Considerations for public four-year institutions include the effectiveness of MOE requirements overall, the design of this particular requirement on states, and the circumstances in which MOEs would be waived in economic downturns which is when the MOE may be most needed.

APLU has made recommendations for improving the MOE language in the legislation.

Tuition Rebates for HBCUs and MSIs

While the federal-state partnership is not inclusive of public four-year institutions, the legislation would create a new federal program (doesn’t require state participation) to provide tuition rebates to HBCUs and MSIs, both public and private. Institutions must have student bodies of at least 35 percent low income as defined by Pell. The legislation stipulates a number of criteria institutions must follow to be eligible for grants, including accepting transfer credits of students from community colleges. Rebates are calculated on a per-student basis based on tuition and fees of the institution with a cap set at the average national level of public four-year institutions. Funds shall be used to waive or significantly reduce tuition and fees for eligible students for up to 60 credits of coursework. Eligible students are low-income students who have been enrolled at the institution for not more than 60 credits, participate in eligible programs, and have not received a benefit for more than six semesters. The legislation provides an authorization of funding, although APLU understands the Biden administration intends for the program to receive mandatory funds.

The program could create substantially new dynamics within states for public four-year institutions relative to tuition levels of HBCUs and MSIs in comparison to other public institutions.