
SUMMARY

The Legislature initially authorized Minnesota's participation in interstate tuition reciprocity agreements in 1967, but it has played a limited role in subsequent oversight of the agreements. To facilitate more active legislative review of the reciprocity program, state law should require periodic legislative reauthorization of the program. This chapter discusses, without recommendation, several other policy options that would fundamentally change the reciprocity program or state funding for nonresident students.

Chapter 4 reviewed the possible impact of various changes in Minnesota's reciprocity agreements, particularly the impact on interstate payments. In this chapter, we address several additional policy issues regarding Minnesota's tuition reciprocity program. Specifically, this chapter discusses the following:

- **What is the appropriate role for the Minnesota Legislature in its oversight of the tuition reciprocity agreements?**
- **What would be the impact of replacing the existing reciprocity agreements with a reciprocity program based on the Midwest Student Exchange Program? What would be the fiscal impact of extending tuition waivers to additional nonresident students? Should eligibility for the tuition reciprocity program be based on family income?**

LEGISLATIVE ROLE

The 1967 Minnesota Legislature authorized the Minnesota Liaison and Facilities Commission for Higher Education to enter into agreements with neighboring states for waiver of nonresident tuition.¹ Although the Legislature was instrumental in the start-up of the tuition reciprocity program, it has played a limited role in the program's implementation. In fact, we observed that:

- **Minnesota law requires no legislative approval of tuition reciprocity agreements, unlike the laws in Wisconsin and South Dakota.**

Minnesota law says that interstate agreements negotiated by the Higher Education Services Organization (HESO) require the approval of the University of

¹ *Minn. Laws* (1967), ch. 866, sec. 1. This commission was a predecessor to the Higher Education Coordinating Board and later the Higher Education Services Office.

Minnesota Board of Regents and the Minnesota State Colleges and Universities (MnSCU) Board of Trustees before they apply to the institutions governed by these bodies.² In addition, if an agreement “incurs additional financial liability to the state or to any of the Minnesota public post-secondary boards, beyond enrollment funding adjustments,” it must be submitted to the Commissioner of Finance and the chairs of the House and Senate higher education finance committees for review.³ The agreement remains valid unless it is disapproved in law.

In contrast, Wisconsin law requires approval of reciprocity agreements by the legislative Joint Committee on Finance.⁴ In Chapter 1, we noted that some of the key provisions governing implementation of the reciprocity agreements are in annual administrative memoranda developed by the participating states. Wisconsin law requires submission of these annual memoranda to the Joint Committee on Finance. The memoranda take effect if (1) the committee chooses not to meet and discuss them, or (2) the committee meets and approves them.⁵ In recent years, the committee has not met to discuss the memoranda, but legislative fiscal analysts have reviewed the memoranda to help the committee decide whether to meet. Like Wisconsin law, South Dakota law requires legislative approval of that state’s tuition reciprocity agreement with Minnesota.⁶ North Dakota law does not require legislative approval of reciprocity agreements.⁷

Minnesota’s interstate tuition reciprocity agreements have undergone substantial change during the past 30 years, mostly through administrative actions. Some of these actions have had far-ranging effects. For instance, until 1983, Minnesotans who participated in the reciprocity program paid the resident tuition of the institution they attended. In 1983, administrative agencies in the participating states negotiated changes that required Minnesotans to pay their home state resident rates to attend college in Wisconsin, North Dakota, and South Dakota—thus removing financial incentives for Minnesotans to attend out-of-state schools. This change increased Minnesota reciprocity students’ tuition rates and reduced Minnesota’s net interstate payment obligations.

In general, the laws governing the reciprocity program are not very prescriptive, leaving much discretion to HESO and Minnesota’s two public higher education governing boards. The Legislature can pass legislation to invalidate an administratively negotiated reciprocity agreement,⁸ but it has never done so.

Minnesota laws governing the reciprocity program are not very prescriptive.

² *Minn. Stat.* (2002), §136A.08, subd. 6.

³ *Ibid.* HESO officials said that this requirement has been met through the state’s biennial budget process, as well as the provision of information to the finance commissioner and legislative committees regarding key changes in the agreements (such as the tuition surcharge for Wisconsin students attending the University of Minnesota-Twin Cities).

⁴ *Wis. Stat.* (2001-02) §39.42.

⁵ *Wis. Stat.* (2001-02) §39.47.

⁶ *S.D. Codified Laws* (2002) §13-53-6.2.

⁷ North Dakota law requires that “before entering into any such agreement which necessitates the expenditure of state funds, the state board of higher education return to the legislative assembly for approval of such expenditures” (*N.D. Cent. Code* (2001), §15-10.1-01.1). Thus, while North Dakota law does not require legislative approval of the reciprocity agreement, it requires legislative authorization for reciprocity-related state spending.

⁸ *Minn. Stat.* (2002), §136A.08, subd. 6.

Meanwhile, HESO and its counterpart agencies in the reciprocity states have developed fairly complex formulas governing interstate payments that have not been subject to much legislative review in Minnesota. The Legislature's main ongoing role in the reciprocity program has been to appropriate funding each biennium for the program's interstate payments. While it is reasonable for administrative agencies to play the lead role in negotiating the manner in which the reciprocity program will be implemented, we think that the Legislature should more actively oversee these administrative actions.

RECOMMENDATION

State law should require periodic legislative reauthorization of the reciprocity program.

State law should be amended to require that HESO annually submit to the House and Senate higher education committees for information purposes (1) annual interstate administrative memoranda regarding the reciprocity program, and (2) worksheets showing how interstate payments with each state were calculated for the previous year. Also, state law should require periodic legislative reauthorization of the reciprocity program—perhaps every five years.

We suggest that the reciprocity program be subject to a “sunset” provision so that HESO and Minnesota's two public higher education governing boards would have to periodically make a case for program continuation. In our view, a legislative reauthorization process would provide a forum for discussion of program trends, the terms of the agreements, fiscal impacts, policy options, and legislative concerns about program implementation. To facilitate such discussions, it would be useful for HESO to present legislative committees with a report on the reciprocity program prior to decisions regarding reauthorization.

BROADER POLICY OPTIONS

In Chapter 4, we discussed the potential impacts on interstate payments of various changes in the interstate reciprocity agreements and tuition levels. Below, we briefly discuss other options that could be considered as alternatives or supplements to the present tuition reciprocity agreements. It is worth reiterating that the Legislature can invalidate a negotiated reciprocity agreement by passing a law to “disapprove” it,⁹ but Minnesota law does not specifically authorize the Legislature to unilaterally change individual *components* of reciprocity agreements that have been negotiated between two states. The Legislature could, however, direct HESO to try to negotiate different provisions in the agreements.

⁹ *Ibid.*

Substitute the Midwest Student Exchange Program for the Reciprocity Agreements

Minnesota participates in the Midwest Student Exchange Program (MSEP) with Kansas, Michigan, Missouri, Nebraska, and North Dakota.¹⁰ Under this program, nonresident students pay no more than 150 percent of a participating institution's resident tuition, plus any required fees.

Some legislators asked us about the possible impact of substituting an MSEP-type program for Minnesota's existing reciprocity agreements. But, of the three states with which Minnesota has statewide reciprocity agreements, only one (North Dakota) participates in MSEP. Wisconsin is a member of the Midwestern Higher Education Commission, which sponsors MSEP, but Wisconsin has chosen not to participate in MSEP. South Dakota does not participate in either the Midwestern Higher Education Commission or MSEP. Minnesota could not unilaterally substitute an MSEP-type program for its three existing reciprocity agreements, and it is doubtful whether Wisconsin and South Dakota would choose to participate in MSEP. Also, if Wisconsin, North Dakota, and South Dakota participated in MSEP, there is no guarantee that all of the public colleges and universities in these states would choose to participate; in contrast, all of the public colleges and universities in Wisconsin, North Dakota, and South Dakota participate in Minnesota's reciprocity agreements.

Even if all of these states chose to participate in MSEP,

- **The main impact of adopting an MSEP-type program in place of the existing reciprocity program is that most reciprocity students would likely pay higher tuition to attend school out of state than they do now.**

For example, we examined the fiscal impact if (1) Wisconsin and Minnesota participated in MSEP instead of the present reciprocity program, (2) all Minnesota-Wisconsin reciprocity students in 2001-02 continued to participate in MSEP, and (3) nonresident students paid 150 percent of resident tuition at the institution they attended. Under this scenario, we estimated that the \$34.3 million in tuition revenues that Minnesota institutions received from Wisconsin reciprocity students in 2001-02 would have increased to \$58.8 million.¹¹ Meanwhile, Wisconsin institutions' tuition revenues from Minnesota residents would have increased from \$46.0 million to \$57.2 million. But price-sensitive Minnesotans would have likely found Wisconsin schools less appealing, and price-sensitive Wisconsin residents would have likely found Minnesota schools less appealing.

In addition, states in MSEP presently do not make interstate payments to compensate for instances in which participating states bear unequal instructional costs. In part, however, interstate payments have not been part of MSEP because

¹⁰ This program is an initiative of the Midwestern Higher Education Commission, a nonprofit regional organization that encourages interstate cooperation among its ten member states. Illinois, Indiana, Ohio, and Wisconsin are also members of the commission but do not participate in the Midwest Student Exchange Program.

¹¹ We assumed that all Minnesota and Wisconsin institutions would participate in the program. As noted in Chapter 1, not all institutions in MSEP states have chosen to participate.

Wisconsin and South Dakota do not participate in the Midwest Student Exchange Program.

relatively few students participate in the program, and the cost impacts have been small. If MSEP replaced the tuition reciprocity program and participation levels in MSEP increased dramatically, participating states might be inclined to consider adopting provisions for interstate payments.

Waive Nonresident Tuition for More Nonresidents

Some higher education officials have suggested that state funding formulas should recognize nonresidents who are not reciprocity students in the same manner that students from Minnesota and reciprocity states are recognized by the formulas. Minnesota law says that state appropriations must provide for at least 67 percent of the estimated instructional expenditures for students who are residents of Minnesota and reciprocity states.¹² If state appropriations provided the same level of state funding for all resident and nonresident students, Minnesota's public higher education institutions might consider the option of eliminating higher tuition rates for nonresidents.

The Minnesota State Colleges and Universities (MnSCU) system proposed such a change in its 2002-03 budget as a "strategy for long-term labor force development."¹³ In fiscal year 2002, 5 percent of MnSCU students were nonresidents who were *not* covered by some type of interstate reciprocity agreement. Under MnSCU policy, more than half of these students paid Minnesota resident tuition rates—for instance, certain students from other countries. But about 2,700 full-year-equivalent students were nonresidents who were not covered by an interstate tuition reciprocity agreement or another type of tuition waiver.

MnSCU's proposal was not approved by the Legislature. Notably,

- **Providing equivalent state appropriations to Minnesota's higher education systems for each resident and nonresident student would significantly increase state higher education costs.**

A MnSCU pilot project authorizes certain institutions to waive nonresident tuition.

MnSCU estimated that such a change for its students would have cost the state \$26.4 million more than existing funding formulas during the 2002-03 biennium. In the meantime, MnSCU has authorized a pilot program under which individual institutions can charge resident tuition to nonresidents who are not covered by the interstate reciprocity agreements, although these institutions do not receive additional funding for doing so. Since 1999, 13 MnSCU colleges and universities have participated in this pilot project, for various reasons: for example, to increase enrollment, compete with the recruiting efforts of other states' institutions, increase residence hall occupancy, and attract future workers to regions with workforce shortages. For now, we think it is wise to allow individual institutions to judge whether the benefits they gain from nonresident tuition waivers exceed the tuition revenues they lose. At some future date, MnSCU's pilot project may shed light on whether there would be significant benefits to

¹² *Minn. Stat.* (2002), §135A.031, subd. 2.

¹³ Minnesota Department of Finance, *State of Minnesota 2002-03 Biennial Budget* (St. Paul, January 2001), B-162.

Minnesota from expanding state higher education subsidies to nonresidents who are not from reciprocity states.

Target the Reciprocity Program to Financially Needy Students

Minnesota's tuition reciprocity program is open to all residents in participating states, regardless of family income. In contrast, eligibility for Minnesota's main financial aid program for students—the State Grant Program—is based on income. Students who receive Minnesota state grants can use these grants at either a public or private higher education institution in Minnesota, while participants in the reciprocity program must enroll at public colleges or universities.

Private college representatives told us that the tuition reciprocity program may encourage price-sensitive students to attend public rather than private institutions.¹⁴ They suggested that policy makers should consider narrowing the scope of the reciprocity program—for example, by making eligibility for the program dependent on family income.¹⁵

It is unclear whether states that now participate in reciprocity agreements with Minnesota would favor eligibility limitations.

In our view, the reciprocity program presently fulfills Minnesota law's broadly-stated purpose for this program. Minnesota law states that the tuition reciprocity program's purpose is to improve educational opportunities for participating students, and the law does not specify any particular categories of students for whom these opportunities should be improved. The Legislature could decide to modify the law's stated purpose for the reciprocity program, but there is no assurance that the other states that participate in reciprocity agreements with Minnesota would be willing to participate in a program with more limited eligibility provisions. We offer no recommendation on such a policy change.

¹⁴ In addition, private college officials have generally expressed a preference for the state giving subsidies directly to students, to use at the institutions they choose, rather than giving subsidies to public institutions.

¹⁵ We found that available data on the average family incomes of reciprocity students are limited and not conclusive. The University of Minnesota and MnSCU have family income data for about half of their students, and it is doubtful whether the students on which they have data are representative of the full population. A 2001 report by HESO and the Minnesota Department of Children, Families and Learning said that Minnesota high school graduates who enrolled at schools in reciprocity states had higher average family incomes than those of graduates who attended various Minnesota institutions. But the survey on which this report was based included just 156 reciprocity students, so its margin of error was relatively high.