

**Autonomy and Tuition:
State attempts to influence tuition decisions at autonomous
public universities in the
State of Michigan**

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Abstract

Through analysis of legislation and trends in tuition, enrollment, appropriations and state consumer price index data, the effectiveness of three attempts by state government to control tuition increases by Michigan's constitutionally autonomous public universities are documented with a glimpse at trends for the future.

This study attempts to provide an informed analysis of the appropriate data as to the effect of the state government's attempts to influence tuition and fills an apparent void in available data on this subject.

1.0 Introduction

This paper will attempt to answer the question: Have state government efforts to control tuition increases by constitutionally autonomous public universities in the state of Michigan succeeded in restricting the rate of increase in public university tuition to a level at or below the rate of inflation as measured by the Detroit consumer price index (DCPI)? I will do this by examining three historical methods used by state government to restrain tuition increases at public four-year universities in the state of Michigan.

As Michigan strives to stay competitive in an increasingly global economy, the educational level of its citizenry becomes increasingly vital. Post-secondary education--specifically, a four year university degree--is seen as a requirement for most of today's well-paying employment opportunities. Governors and legislators across the country now view access to public higher education as a necessary economic development priority. In fact, a report by the State of Michigan's Senate Select Committee on Tuition Policy completed in 1990 stated:

“In an economic environment increasingly dependent on a highly-educated workforce, the

opportunity for individuals to attend college is a *prerequisite* (emphasis added) for economic growth. Michigan must not only provide the opportunity for post-secondary education, but must also develop an incentive structure to encourage a larger proportion of the population to receive post-secondary education. High tuition rates at our four-year public institutions threaten both goals.” (Final Report, Senate Select Committee on Higher Education, 1990)

A strong post-secondary education system with a good reputation can result in the creation or attraction of new industries adding depth and diversity to the economy of a given state. The state of Michigan clearly recognizes this fact. In the 2002 Michigan Investment Guide published by the Michigan Economic Development Corporation, the state’s higher education system is touted as a source of educated workers and research infrastructure in addition to enhancing the general quality of life for Michigan residents. Section headings in this investment guide bear this out: “Graduates in Abundance” and “Talent in the Pipeline” and “Top-Notch Universities.” In addition, the publication includes a chart detailing the numbers of students graduating with engineering degrees and added emphasis on the University of Michigan’s and Michigan State’s standing as international leaders in research. The combined effect builds a strong image of the importance of higher education to the state’s economic well-being and success.

The availability of quality higher education improves income levels, which therefore improves the quality of life for degree holders and helps broaden and expand the state’s tax base. However, availability of and access to higher education are two different issues. A high quality post-secondary education may be available but not accessible, reflecting several factors. An increasingly discussed factor limiting such access is affordability. In some states, like Georgia or Florida, public policy makers--legislators and governors--ensure affordability by playing a direct role in the setting of tuition rates at

their public universities.

In Michigan, public policy makers are restricted from such direct involvement in the operation of the state's universities by the Michigan Constitution, which guarantees public universities autonomy from outside regulation or control. The legislature can set appropriations levels and establish general reporting guidelines for public universities as well as create minor controls that are often operated in an indirect fashion. An example of this would be a "buy American" policy that impacts purchases by all state entities. For most other activities, universities are completely autonomous. The Michigan legislature or governor cannot set or directly influence tuition and fees charged by state universities.

Again, with higher education seen as a key factor in the state's economic success and vitality and with accessibility tied directly to affordability, the concern of policy makers rises as tuition rises. Affordability of higher education is usually assessed by comparing tuition increases in Michigan to increases in the cost of living. This is made clear in the 1990 Senate Select Committee Report:

“Tuition rate increases are exceeding inflation and increases in weekly wage. The increasing gap threatens both the accessibility of higher education and the state's economic future.

It is the general conclusion of this Select Committee that Michigan is on the threshold of a major educational crisis if tuition increases are not kept at or below the cost-of-living increase in future years. (emphasis in original) If we don't change the present course, our public universities will become increasing (sic) unaffordable, and the future of Michigan will be threatened.” (Final Report, Senate Select Committee on Higher Education, 1990)

Recognizing the societal cost of rising tuition is one thing. Addressing the problem, especially with the autonomy of individual public universities so firmly entrenched in Michigan's Constitution, is another. Understanding the importance of higher education to the universal well-being of state residents, can elected state officials promote access to higher education by limiting tuition increases without

violating the constitution?

There are several examples of the governor and the state legislators attempting to indirectly influence tuition setting policies for public and, in some cases, private higher education institutions in Michigan. These methods took the form of governors actively using their influence with appointed and elected university boards, legislatures and governors adding tuition restraint provisions to budget bills and the use of a tax credit to indirectly influence tuition.

With tuition rates climbing in the 1980s and 1990s, the legislature attempted a variety of indirect methods to control tuition. The highest profile of these was the Michigan Tuition Tax Credit (TTC). The TTC was enacted by the Michigan Legislature in 1994 as a way to step up the indirect pressure on universities and colleges by providing a tax credit to the students of institutions that restrained tuition increases to at or below the rate of inflation. It was thought that the tax credit would reduce the cost to students by providing a tax rebate and restraining tuition increases therefore somewhat increasing accessibility to post-secondary education.

When the Tuition Tax Credit was found to have limited success at restraining tuition, the legislature enacted a much more punitive tuition restraint provision that mandated funding reductions for public institutions that exceeded a percentage rate of tuition increase that was readjusted annually. This legislation was a more direct way to punish public universities and community colleges for violating tuition restraint expectations. Like the tax credit before it, this approach also has proven to be counter-productive and unsuccessful in attaining its objectives beyond a year or two.

For some issues, realization that a problem has a national scope can ease the impact on state-level policymakers. This appears to not be the case with tuition increases. While rising tuition is a real

and serious problem, national stories on this issue often exaggerate the situation by focusing on the most expensive private schools and the incredible costs of attending such elite institutions. Soon, meaningless statistics emanating from these articles regarding how much it costs to send a child to university become the standard by which the cost of attending any institution is based. This type of reporting only compounds the concerns of constituents leading to calls for action on the state level whenever tuition trends are on the increase.

The degree to which state legislators can impact tuition increases varies widely from state to state. Michigan's constitution places its public universities in a relatively unique situation. It is one of a few states that have such an autonomous public university system. Michigan policy makers responding to public concerns about tuition increases find themselves in an environment where the constitutional deck is stacked against them. At the same time, they understand the tremendous value and importance of Michigan's dynamic public university system to the state's economic future. They must balance their concerns regarding tuition increases, the multiple demands on limited state budget resources, and their desire to maintain Michigan's higher education competitive edge.

This paper will examine the attempts to control tuition and fee increases by public universities in Michigan operating in an autonomous environment. I will detail the history of the constitutional autonomy of public universities and the resulting political and legislative dynamics. In examining recent legislative attempts to control tuition, I will assess whether these policies have had any direct long-term effect in controlling tuition. I will also discuss trends related to this issue and their potential impact on the autonomy of public universities in Michigan and offer strategies for countering these trends. Chief among these trends is what I have called the shifting cost ratio effect; the manner in which the shift in

cost share between appropriations and tuition impacts the politics of the appropriations and tuition setting processes.

To my knowledge, over the period of time examined by this paper (1979-2003), there have been a few special legislative committees created specifically to examine the issue of higher education costs in the state of Michigan. In some cases, the work of these committees was designed to meet short-term political needs by justifying proposals that would have been offered anyway, special committee or no.

In the last twenty years, there has been one comprehensive non-legal analysis of university constitutional autonomy in Michigan, two fairly extensive examinations of higher education in Michigan by the Senate Select Committee on Higher Education, a gubernatorial commission empowered by Governor Blanchard to review higher education funding in 1985 and two studies of the Michigan Tuition Tax Credit. The analyses of the Tuition Tax Credit related to the law's fiscal impact on the state and its relative impact on Michigan taxpayers. For example, the tax credit studies were limited to a review of how much has been spent to fund the credit and what was the average credit provided to students attending institutions which qualified, etc. There have also been studies regarding related issues such as the Michigan Educational Trust, Michigan Merit Scholarships and general financial aid issues that are not discussed in this paper.

The public university "system" in Michigan has been the topic of several research papers but, to my knowledge, none deal as directly with the legislative and political dynamics resulting from the unique constitutional status of public universities in our state. I have participated in several discussions with legislators, university advocates, policy analysts and students regarding this issue and the related issue of the rising cost of higher education and have read widely on the subject. Based on related

research literature and on my own direct experience as director of government relations for a public university, I am confident that no more than anecdotal examples and/or relatively superficial analysis of tuition trends has been offered in recent years to indicate the impact, positive or negative, of attempts to influence tuition increases at public universities in the State of Michigan. None of these studies discussed the political impact of the shift in cost burden between tuition and state appropriations; the shifting cost ratio effect. This paper will review the history and nature of public university autonomy in Michigan, examine the effect of three specific attempts to restrain tuition increases and offer insights into significant trends in appropriation and tuition increases in the state of Michigan.

2.0 Autonomy and public higher education in Michigan

Michigan's state level policy makers and implementers have attempted to influence and control university actions related to tuition, among other issues, in order to respond to perceived concerns of constituents. In order to understand their methods and their successes and failures, one must understand the relationship between public universities and state government in the state of Michigan. The basis of that relationship can be summarized in the words: autonomy and appropriations. I will first discuss the history, nature and effect of the autonomy enjoyed by public universities and then attempt to describe the appropriations process and its history and future implications related to the autonomous public universities.

2.1 The constitutional basis for the autonomy of public higher education

Michigan's tradition of constitutional autonomy for public universities has deep roots. In 1850 the University of Michigan was the nation's first public higher education institution to be granted

constitutional autonomy (Bowen, Frank et al.). The autonomy of Michigan's public universities while extensive is not absolute. Since the mid to late-1800s, there has developed an extensive body of court rulings and Attorney General Opinions that have defined the nature of university autonomy and the relationship between public universities and the legislative and executive branches. This section will attempt to detail some of the more significant rulings and opinions that make up the history of university constitutional autonomy in the state of Michigan. This historical perspective will help explain the environment in which universities, legislators and governors interact on key issues such as the setting of tuition rates.

Constitutional autonomy is so much a part of the public university environment in Michigan that one cannot speak of public policy related to Michigan's public universities without mentioning their constitutional autonomy. Public higher education in Michigan exists in a setting that is easily one of the most autonomous in the United States. While public universities in five other states also operate autonomously from the rest of their respective state governments, only Michigan elects some of its university boards of control through statewide elections. Delaware is the only state that has a more autonomous university system than Michigan. (Jeffries, Smith-Tyge, 2000, page 9)

Public universities in Michigan do not operate under the direction of the legislature, the governor, a central governing or coordinating board, or a state office or department of higher education. Each university has its own board, of governors, regents or trustees. As stated above, governing boards at some universities - Michigan State University, the University of Michigan (including the Flint and Dearborn regional campuses) and Wayne State University - are elected in statewide elections. The governor of Michigan, with the consent of the state senate, appoints the members of the remaining 10

public university boards. While all 15 public universities belong to the Presidents Council State Universities of Michigan (PCSUM), the Presidents Council is only a coordinating body in the loosest sense of the term. In fact, it operates more as a trade association advocating only on those issues that have garnered at least near unanimous consensus of the 15 member institutions.

The Michigan Constitution guarantees a high level of autonomy in order to protect the academic freedom of public higher education in Michigan. The state's Constitution of 1850 set the precedent in response to legislative attempts to mandate the creation of a professorship for Homeopathic Medicine at the University of Michigan (UM). Since the inception of the UM in 1835, until the passage of the 1850 Constitution, various legislatures and governors exercised great control over the operation of the University. This control was seen as detrimental to the health and quality of the University and its academic program. The drafters of the 1850 Constitution eliminated this problem by making the Board of Regents of the University of Michigan directly elected by the people of the state. The 1850 Constitution gave the regents the sole responsibility for "the general supervision of the university, and control of all expenditures from the university interest fund" (Barclay and Mohn, 1988 p. 3-4). Because Michigan public universities are established by the constitution and given such sweeping autonomy, they are sometimes referred to as the "fourth branch of government" (Barclay and Mohn, 1988 p.10).

The 1908 Constitution of the State of Michigan established an elected board of trustees for the Michigan Agricultural College (now Michigan State University) thus making it an autonomous institution like UM. The 1963 Constitution built on the language of previous constitutions, further solidifying the concept of public university autonomy in Michigan government. The Constitution of the State of Michigan, enacted in 1963, states:

Article VIII, Section 4, Higher education institutions; appropriations, accounting, public

sessions of boards. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of the governing boards of such institutions shall be open to the public.

The section above establishes each public university that existed at that time, as well as the universities that have subsequently been established or could be established in the future, as constitutionally autonomous with their only responsibility to state government being “an annual accounting of all income and expenditures.” The legislature is instructed to appropriate monies to “maintain” these institutions although that term is not specifically defined.

The 1963 Constitution also established an elected board of governors for Wayne State University, making it a political “equal” with UM and MSU, and reiterated the concept of constitutional autonomy for universities with elected boards. After defining the boards of each of these three institutions as a “body corporate,” Article VIII, Section 5 reads, in part:

Each board shall have general supervision of its institution and the control and direction of expenditures from the institution’s funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without right to vote and preside at the meetings of the board.

This is, as Barclay and Mohn point out, the critical passage pertaining to constitutional autonomy using much the same language as the 1850 Constitution (Barclay & Mohn 1988, p. 4).

The most significant change in the 1963 Constitution related to the autonomy of higher education is the section that greatly broadened the scope of university autonomy to include not just those public

universities with elected boards, but all institutions, current and future, that offer four-year academic degrees. Article VIII, Section 6 reads as follows:

Other institutions of higher education established by law having the authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds.

This language acts as a confirmation of the autonomy implied in Section 4 above for universities with non-elected boards and equates their standing with the state as equal to that of the universities with elected boards. The section above is followed by language identical to that found in Section 5, authorizing these non-elected boards to elect a president and describing the president's role. The section then states that these non-elected boards shall be appointed by the governor to staggered terms, with the advice and consent of the Michigan Senate.

An apparent challenge to the autonomy principle is Article VIII, Section 3, which states that the duties of the State Board of Education are as follows:

Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The second sentence of the quotation above seems to state that the board of education is responsible for "general planning and coordinating" and for advising the legislative branch regarding the financial needs of all of public education including state universities. However, the effect of this sentence is mitigated by additional text at the end of this section of the constitution:

The power of the institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

These two passages seem to be in conflict. In fact, Barclay and Mohn state that it was the general expectation after the enactment of the 1963 Constitution that the State Board of Education would act as the planning and coordinating authority over all public universities. The universities fought this notion and won an important legal battle in the 1975 Michigan Supreme Court case “*The Regents of the University of Michigan v. the State of Michigan.*”

When the legislature enacted 1971 PA 122, the Higher Education Appropriation Act of 1971, it included several provisions designed to exercise direct and indirect control over constitutionally independent universities in the State of Michigan. The universities naturally objected to these legislative attempts to, among other things, regulate the number of out of state students, give the State Board of Education authority to approve new academic programs and construction projects and, most importantly for the purpose of this paper, dictate the level of tuition. Portions of the act that were challenged include:

Section 13: “It is a condition of this appropriation that no college or university having an enrollment of out of state students in excess of 20% of their total enrollment shall increase their enrollment of out of state students in either actual number or percentage over the actual numbers and percentages that were enrolled in the 1970-71 school year.

“Further, it is the intent of the legislature that an out of state student shall pay a student fee equal to approximately 75% of the cost of instruction at the respective institution of higher education.”

And:

Section 26: “If revenue from tuition and student fees excluding self-liquidating or activity fees exceeds in the aggregate the amount reported by the institutions of higher education in their notification of April 15, 1971 for Michigan resident students as a result of an increase in student fees or tuition the general funds subsidy appropriated for the support of that branch or institution of higher education shall automatically be reduced by the amount by which such revenue exceeds the amount reported. Each institution of higher education shall certify to the legislature not later than April 15, 1972 the schedule of tuition and student fees applicable to Michigan resident students for the fiscal year 1972-73.”

This section also included a legislatively mandated tuition rate schedule based on semesters and quarters at public universities. As stated in the legislation above, universities that raised tuition in excess of the stated level would face reduction of their appropriation by the amount of “surplus.” The Michigan Appeals Court ruled this language to be an unconstitutional infringement on the right of public universities to set their own tuition rates. When the Michigan Supreme Court later took up this case, it did not rule on this specific issue as the offending language was not contained in subsequent appropriations bills passed by the legislature. The Michigan Supreme Court stated that it considered it “inappropriate to raise problems where none presently exist.” (*Regents of the University of Michigan v. State of Michigan*, Docket No. 54966)

This case determined that the clear intent of the writers of the constitution was to maintain the traditional complete autonomy of the universities and that the Board of Education was meant to act in a mere advisory role with no real authority over the operations of the universities. In the Appeals Court ruling that preceded the Supreme Court’s examination of the case, the court stated in its conclusion:

“We further note that the limitation on the authority of the board with respect to the appellee institutions was explained by the Constitutional Convention in its “Address to the People as follows:

“The concluding paragraph of [Article VIII, Section 3] preserves for the boards of institutions of higher education the power to supervise their respective institutions and control and direct expenditures of their funds *as at present*.” (Emphasis added in the court ruling.)

It is obvious that what the members of the Constitutional Convention must have had in mind was the long series of Supreme Court decisions and Attorney General opinions, discussed above, which established the independent authority of the universities to be free from legislative interference in the operation of the their respective institutions.”

The opinion described the appeal petition as resulting “from a three-way struggle on the part of several

government titans – for the power effectively to control and direct the future course of higher education within this state.” (*Regents of the University of Michigan v. State of Michigan*, Docket No. 13422.)

The Michigan Supreme Court took up *Regents of the University of Michigan v State of Michigan* in 1974, issuing a ruling in 1975. The Supreme Court ruled that some decisions of the Appeals Court were moot since the legislature acted to change offending portions of the legislation in question to reflect “legislative intent” rather than a legislative mandate. The court concurred in the ruling that the legislature cannot control university behavior by placing conditions on appropriations. However, if the legislature provides an appropriation for a specific purpose (specific or supplemental appropriations) and universities accept that appropriation, then universities are accountable to use the appropriations for that legislatively stated purpose. This allows the Michigan legislature to have some control over the operations of universities but only when such control is accepted by the universities and only for the specific issues involved.

Examples of this type of specific or supplemental funding is, in the first case, the Research Excellence Fund which was established by the legislature in order to provide funding on a competitive basis to university-based research projects. In the second case, supplemental funding was often allocated to universities at the end of budget years that ended in surplus. The enacting legislation states specific areas such as technology or university specific projects. Universities are then required to report to the legislature how those monies were used. The reports are often general in nature and are designed to show both compliance with the law as well as the continuing need of the institutions.

At the same time that the Court allowed some forms of conditional appropriations, it made clear that the legislature may not indirectly control universities by placing conditions on general state

university appropriations any more than it can use direct means like placing directive language in legislation. Such conditions on general fund appropriations were viewed as having the same effect as direct control and were therefore ruled unconstitutional. Concurring with the Michigan Appeals Court thusly (italics in original):

The conditions in an appropriation act for a constitutional university may not be designed to permit the Legislature to accomplish indirectly that which it may not do directly, interfere with the management of the affairs of the university. (Regents of the University of Michigan v. State of Michigan, Docket No. 54966 - Headnotes Item 8.)

Where state appropriation are not involved, the Legislature may not require that branches and departments of the constitutional universities be established or that these may not be established. (Headnotes Item 9.)

The constitutionally independent universities have exclusive control over general funds appropriated for the general purposes of the schools. (Headnotes Item 10.)

The state may attach specific conditions to appropriations to a constitutionally independent university, but may not interfere with the exclusive expenditure of such funds once they pass under the control of the university; such conditional appropriations may not be part of the general appropriation. (Headnotes Item 14.)

The Legislature has the power to condition specific or supplementary appropriations to a constitutional university and once these funds are accepted the university is bound by the conditions, but the Legislature may not interfere with the management of a constitutionally independent university, even to ensure that the funds are spent as required. (Headnotes Item 15.)

The Legislature cannot prohibit nor require the taking of any particular action by a constitutional university. (Headnotes Item 16.)

The Court further clarified that the State Board of Education had a rather limited role concerning higher education. Universities were required to inform the Board of new academic programs and of new construction projects and related financial information but the Board has no authority to approve or disapprove any university action or budget proposal.

In the conclusion of its ruling on this case, the Michigan Supreme Court justices summarized the relationship between the legislature and public universities in three itemized points with an additional one in a closing paragraph:

1. “The legislature may not interfere with the independence of the universities to manage their institutions.
2. The legislature may not attach conditions to a general fund appropriation.
3. A prohibitory condition is unacceptable because it does not give the universities the option to refuse the appropriation and avoid the condition or to accept the appropriation and accept the condition. The latter leaves the management decision to the university. The former unconstitutionally substitutes legislative management.

It is our opinion, however that if the universities would contravene the expressed legislative intention, they would be breaking faith with their expressed intentions to the legislature and to the people of this state, quite possibly finding themselves legally estopped from so doing in addition.” (*Regents of the University of Michigan v. State of Michigan*, Docket No. 54966)

It is also noteworthy that the Court stated in the body of the ruling “(W)hile there is much dicta saying that the legislature can impose a condition in a special appropriation, we have not been cited nor have we found a single case where this was the dispositive issue.” The writers of the opinion continue “(T)he question for future courts to consider then became, what conditions could the legislature constitutionally attach to university appropriations?” (*Regents of the University of Michigan v. State of Michigan*, Docket No. 54966)

The cases outlined above set the tone for subsequent discussions, Michigan Attorney General Opinions and court cases regarding the extent of university autonomy. The only significant amendment to this precedent was a decision that held public universities accountable with other state entities to the legislature’s “police power” or the state’s authority to protect its citizens and provide for the safety and good order of society” (Barclay and Mohn 1988, p. 23). The specific issue involved in the first case was

the police powers of the state related to workmen's compensation.

There was a second later case wherein universities attempted to claim they were immune from liability suits for negligence as constitutional entities. In a tied decision, the Michigan Supreme Court let stand a lower court opinion that held that since the legislature abolished governmental immunity for all of state government, public universities also lost such immunity (Barclay and Mohn 1988 p. 24).

These rulings confirmed the authority of the legislature to exercise "police powers" over universities as it would any other state entity. On the plus side for universities, another ruling made clear that there is no constitutional distinction between the educational and non-educational "spheres" of the university. Therefore, autonomy does not just protect the academic and financial operational independence of public universities in Michigan, but also gives them virtually equal status with the other branches of government (Barclay & Mohn 1988 p. 23).

The most recent court ruling involving Michigan public university autonomy centered on presidential searches. Specifically, the court was asked to decide whether or not public universities are subject to the provision of the State of Michigan's Open Meetings Act when they are engaged in activities related to the selection of a new president or chancellor. There were two high profile cases regarding presidential searches at Michigan State University and the University of Michigan. Both institutions were sued by newspaper interests who objected to the closed nature of such searches at each institution. The issue appears to have finally been resolved by a Michigan Supreme Court ruling in the *Federated Publications, Inc. versus the Board of Trustees of Michigan State University* case. The ruling overturned a Michigan Appeals Court ruling and declared that public universities are free to establish any selection process they choose when hiring campus leaders, including keeping related meetings and

their content closed to the public. In the words of the court [460 Mich 75, 86-87: 594 NW2d 491 (1999)]:

The application of the Open Meetings Act to the selection of a university president by the Michigan State University Board of Trustees infringes upon the board's constitutional power. The Michigan Constitution only requires the board to hold its formal sessions open to the public, and thus the only aspect of the board's presidential selection process required to be open to the public is such business conducted at a formal session of the board.

The Michigan Supreme Court offered these following precedents, among others, for its ruling:

This Court has long recognized that Const 1963, art 8, 5 and the analogous provisions of our previous constitutions limit the legislature's power. "[T]he legislature may not interfere with the management and control of universities. [Regents of the University of Michigan v. Michigan, 395 Mich 52, 65; 235 NW2d 1 (1975).] The constitution grants the governing boards authority over "the absolute management of the University, and the exclusive control of all funds received for its use." [State Bd of Agriculture v Auditor General, 226 Mich 417, 424; 197 NW 160 (1924).] This Court has "jealously guarded" these powers from legislative interference. Bd Of Control of Eastern Michigan Univ v Labor Mediation Bd, 384 Mich 561, 565: 184 NW2d 921 (1971).

This case further protected university autonomy from legislative actions that are deemed to impinge on the university's ability to operate without undue legislative influence.

In addition to cases brought before the courts, the Michigan Attorney General's office is frequently asked by legislators to provide an opinion regarding the constitutionality of specific legislation involving public universities. The importance of these opinions is not only that they provide an opinion on the issue or action in question, by basing opinions on constitutional and legal precedents, they also act as a summary and reminder of the various ways that public universities are and are not autonomous from legislative and executive oversight and control. These opinions are a constant reminder of the boundaries of university autonomy and are a fairly convenient and inexpensive method by which issues can be decided short of going to court.

Court rulings and Attorney General Opinions make clear that the ability of the Michigan legislature or the governor to influence or direct the actions of Michigan public universities is extremely limited. Legislation may be enacted stating public universities “*must*” conform to certain mandates of state government but it is understood that such directive language pertaining to Michigan public universities is really just an indication of “legislative intent” and not a legislative mandate. The difference between legislative mandate and legislative intent is evident in a recent Attorney General’s Opinion, number 7052, regarding the use of public funds to support the alliance between Michigan State University (MSU) and the Detroit College of Law (DCL). Because DCL is a private institution, legislators were concerned that public funds would be used to subsidize its operation when the institution formed an alliance with MSU and moved to East Lansing. The appropriation bill for that year, PA 93 of 1999, expressed legislative intent that state tax dollars may not be used to directly or indirectly fund support DCL.

In summary, the governing boards of public universities in Michigan today are completely autonomous in establishing budgets, expending revenue, setting tuition, creating academic programs and every other operational area that does not involve the police powers of the state. Even in cases where legislation is enacted containing directives from the legislature to the universities, it is understood that such language is merely a statement of legislative intent.

2.2 The political implications of autonomy

In its 1975 ruling referenced above, the Michigan Supreme Court advised Michigan’s public university that their constitutional autonomy exists to serve the public good which is best advanced by maintaining a cooperative relationship with the Michigan legislature. The administration of any public

university should give high regard to the legislature's opinion on specific issues as the legislature is viewed as a primary partner in the universities ability to serve the public. State elected officials should, in turn, work with university leaders supporting their efforts to enhance or expand services that benefit the public good. While university leaders work to foster good relationships with state leaders, they are also accountable to several internal constituencies such as faculty, students, alumni and donors. While these external and internal interests are important, university leaders are really only answerable to the elected or appointed board for their particular institution. The boards themselves are, in practice, only answerable to the person or people to whom they owe their position.

The three elected public university boards in Michigan are answerable to the voting public and, indirectly, to the leadership of the political party that nominated them. As politicians, elected university board members must be concerned about the opinions of the voting public and their political benefactors although, as with any elected official, the intensity of this concern is dependent on their own political strength and viability, and how near they are to re-election. With staggered terms for elected board members, only a third of an elected board will engage or react to an issue with the intensity that only an upcoming election will motivate.

The members of the appointed university boards are only answerable to the governor of Michigan, as they owe his or her position directly to his or her appointment. If an appointed board member wants to be reappointed at the end of their term, he or she will listen carefully and consider any request the governor may make. Barclay and Mohn point out that elected board positions may attract a disproportionate number of candidates who may only be using the position to gain political recognition for use in running for a higher office or may be nominated for a board position through political

favoritism and not for any special interest in or skills concerning higher education (Barclay and Mohn, 1988 p.5).

It's worth noting that the text used to announce university board appointments by the governor's office makes no mention of the governor's expectations for that board appointee or the specific reasons for the appointment. Looking at such announcements for 2001, the text typically describes the boards as being "responsible for enacting, amending, and repealing rules, bylaws and regulations for the conduct of its business and for the government of its institution." This would seem to indicate recognition of a fairly hands-off approach to direct influence over board appointees by the governor and acknowledgment of their autonomy once the appointment has been made.

In the 2000 and 2001 legislative sessions, a proposal aimed at changing the constitutional status of the three elected university governing boards was introduced in the Senate. Senate Joint Resolution A proposed amending section 5 of article VIII of the 1963 constitution making membership of these boards subject to gubernatorial appointment instead of popular election. Additionally, it would limit terms served by board members to not more than two and would require that the governor not appoint members of his or her political party to more than five of the eight seats for each of the three boards. A sitting governor would have to fill the remaining three seats with "members of the political party whose candidate for governor received the second highest vote at the last general election at which a governor was elected." However, the proposal never made it beyond the committee level.

During his 2001 State of the State address, Governor John Engler offered a second proposal for changing the way positions are filled on the three research university governing boards. His proposal would have maintained the current process of filling eight seats on each of the three boards through the

electoral process, but he would have added seven more members to each board with gubernatorial appointees. No more than four of these appointees could have been from the same party. This proposal was not introduced by any legislators and thus did not go beyond this initial stage.

These two proposals reflect the understanding of the Michigan legislature and governor of the limits of the control they have over the actions of Michigan public university boards. While it could be argued that both proposals would have helped reduce the role of partisan politics in the boards of the three flagship research public universities (MSU, UM, and WSU), a clear additional consequence was to make these popularly elected and therefore most autonomous of the Michigan public university boards more susceptible to legislative and administrative influence.

Ultimately, while Michigan's public universities are constitutionally autonomous, they are constitutionally dependent upon the governor and legislature to provide them with state funding. Barclay and Mohn quote a passage from a Michigan Supreme Court ruling related to constitutional autonomy to emphasize this point:

“It is academic that whatever powers the universities may constitutionally hold, the Legislature holds the power of the purse. Regardless of what this Court might find, the matter remains one of power and politics.” (Barclay and Mohn, p. 13)

How this plays out in the political process is the subject of the following sections.

3.0 The appropriations process and higher education in Michigan

This section will review the appropriations process and the role of the various players involved in order to give some context to the attempts of state government to curtail or influence tuition policies of autonomous public universities.

3.1 The legislative process in Michigan

It is said that in the realm of budget legislation, the governor proposes and the legislature disposes. In other words, while the governor of Michigan may initiate the budget process, it is the responsibility of the state legislature to deliberate and craft the budget to best meet, in their perspective, the needs of the public. The legislature does this through committee and sub-committee hearings that include public testimony. The role of the legislature culminates in a debate and amendment process as each bill is considered by the full membership of each chamber. Each year the House and Senate alternate the initiation of budget bills for each state department or discrete general fund expenditure like higher education.

While the legislature plays a very important role in the state budget process, it is the governor who wields the most significant overall power. The budget process begins with the governor's submission of a proposed budget to the legislature at the beginning of each year. The governor's proposal sets the tone for budget discussions over the next several months. The process ends when the governor signs an appropriations bill. He or she may also decide to veto a bill completely or may exercise line-item vetoes for political or budgetary reasons.

Throughout the appropriations process the governor, primarily through the Department of Management and Budget (DMB) and its director, plays an active role in negotiations related to revenue projections, budget targets, and boilerplate language. In addition, the governor's legislative liaison is in frequent contact with the chairs of the House and Senate appropriations committees and sub-committees as well as the leadership of each chamber. The role of the liaison is to represent the governor and advocate on behalf of the executive branch's proposal as well as signal the governor's position as to

what is negotiable and what is not. In cases where a bill passes both chambers but in different versions, the governor, again represented by the DMB director, is an equal member of the conference committee that negotiates a compromise version of the bill. The other conference committee members include delegates from the appropriations sub-committees from the House and Senate that are responsible for that particular budget bill. The governor may introduce a budget proposal with full intention of using it only as a starting point in negotiations. Even in instances where a budget bill ends up looking very different from its initial draft, it may still fully meet the governor's expectations. Throughout the appropriations process, the governor makes it known which changes are acceptable and which are not. Changes that are found unacceptable may be threatened with either line item vetoes or a total veto. Legislators take these threats very seriously and are usually careful not to push the governor too far. Legislators may also use these veto threats for political cover for not being able fulfill constituent or special interest desires.

Each appropriations bill is assigned to a specific sub-committee of the full appropriations committee of each legislative chamber. The chairs of these appropriations sub-committees wield great influence over the content of the bills. Budget bills may come out of a sub-committee exactly reflecting the governor's proposal or diametrically opposing it. The degree to which the budget bills reflect the will of the governor rests mainly on two variables; the political dynamics existing at any given time between the branches of government and the individual legislators involved and the amount of revenue available. In the first instance, the sub-committee chair may not follow the governor's proposal because of differing political party affiliations, or may be of the same party as the governor but may be pursuing his/her own political agenda. In the second case, the amount of "surplus" revenue in any given budget

year dictates the degree of flexibility within the appropriations process.

During times when the state is flush with revenue, legislators can more easily add funding for favored programs in order to meet political or constituent interests and, as a result, greatly exceed the governor's suggested level of appropriation. In lean budget years, the governor's budget proposals may be distasteful to legislative leaders but they may have little option but to stay within the governor's proposed parameters. However, staying beneath either the governor's or a mutually agreed upon budget cap for a particular bill does not mean that the governor's priorities are still reflected in the final bill. The legislature could adjust how funding is distributed within a bill, greatly altering its final form. In most cases, these changes only affect the margins as usually all programmatic "base funding" stays intact. It may also happen, as in 2001, that both the governor and the legislature amend their proposals, responding to evolving revenue projections that indicate significant unanticipated revenue shortfalls. In dire economic situations, the governor, with the concurrence of the House and Senate appropriations committees, may issue executive order cuts at any point in the fiscal year.

An excellent example of how public universities, legislators and the governor can work together to agree on a budget proposal is the budget that was enacted in 2002. Forecasts for the 2002 budget process predicted cuts for higher education. These cuts would likely have been meted out in an across-the-board percentage basis. Each governing board would have then been faced with the necessity of enacting budgets containing harsh cut backs proportional to the loss of state dollars or mandating steep tuition increases. Fortunately for the universities and their students, while many of their counterparts in other states were indeed facing severe cuts, state and university leaders agreed to a flat budget in exchange for a "voluntary" tuition cap of 8.5%. Ultimately, the state was forced to renege on this

agreement as revenue projections fell far short of actual tax receipts. This situation resulted in the governor issuing mid-year executive orders cutting appropriations for all fifteen state universities. Even though the state did maintain its part of the tuition/appropriations deal, none of the fifteen institutions enacted mid-year tuition increases to make up for the unexpected loss of state funds.

Michigan's legislature and governor are subject to term limits, which have had a significant impact on the appropriations process. The relatively frequent turnover of legislative leaders has created a lack of historical perspective and limited the negotiating experience of legislators. Additionally, a politically strong and adept governor may inspire a general sense of awe in the minds of some inexperienced legislators, leading them to abrogate their legislative responsibilities and simply rubber stamp gubernatorial proposals. This weakness is especially apparent in the House where term limits have forced a complete turnover in House members in recent years. This phenomenon will likely continue into the future as the House is often viewed as a steppingstone to the Senate. Therefore Senators will likely always have an experience advantage over House members that could lessen the influence of the House in budget negotiations.

In 2003, term limits had a dramatic impact on higher education as the entire Senate Subcommittee on Higher Education Appropriations was term-limited out of office at the end of 2002. The chair of this sub-committee, Senator John "Joe" Schwarz, was broadly seen as the single most powerful advocate on behalf of higher education in the legislature. This dramatic loss of experienced and sympathetic leadership, which was significant of and by itself, happened at a time when dire budget predictions for 2003 indicated that a stalled economy would generate far less tax revenue than had been projected. In addition, pressures from other interest groups favoring K-12, local governments,

corrections and health care clearly threatened higher education's share of the state budget. At a time when higher education needed experienced champions, they were term-limited out of office.

At the end of the budget process in 2003, higher education was cut to a greater degree than other major budget areas. This was partly due to the impact of term limits, but probably had more to do with the new governor's attitude toward higher education exemplified, by her public comments to the press and public that higher education was "fat" (Q&A with Governor Granholm: State budget forces tough choices and priorities, Detroit Free Press, Feb. 20, 2003).

The governor and individual legislators play direct roles in the appropriations process in Michigan. Less well understood and appreciated is the indirect role of legislative staff, especially those fiscal agency staffers who provide dedicated support for specific appropriations sub-committees as well as for the full appropriation committee. These analysts, from the House and Senate fiscal agencies, understand their respective budgets probably better than anyone else in Michigan state government. Legislative staff members are not only responsible for providing technical advice to the legislators serving on their committees, but also for developing detailed analysis of bills, upon request by their chamber. House Fiscal Agency (HFA) and Senate Fiscal Agency (SFA) staffers are responsible for everything related to the operation of the sub-committees and full committee, from scheduling hearings and related testimony, to acting as go-betweens to the agencies, departments, associations and other entities with special interest in the deliberations of the sub-committees. Staffers may also play a role in monitoring compliance by universities and other entities with boilerplate provisions that may be in the enacted version of the bill.

In the case of higher education, SFA and HFA staff who serve the higher education

appropriations sub-committees in their respective chambers play a very important role in the development of funding proposals. It is usually the case that the sub-committee chair will have a definite idea of how he or she would like to see available funding distributed among the 15 public universities, financial aid and other funding line items in the bill. Based on agreed-upon revenue projections, sub-committee politics and other political variables, the chair will ask the sub-committee fiscal agency staff to develop a means by which specific goals might be advanced through the development of a distribution formula or technique. Sometimes the sub-committee chair takes action with the consultation of sub-committee members; sometimes the chair acts without prior acceptance of the rest of the sub-committee. Some sub-committee chairs are much more adept and confident in this process than others, and the degree of reliance on staff and willingness to seek input from their colleagues on the sub-committee varies accordingly.

Special-interest lobbying has significant influence on the budget process. Organized interest groups intensely lobby for new or increased funding for specific programs or for budget-related legislation that benefits their interests. Many such special-interest groups begin their lobbying activities with the executive branch prior to the issuance of the governor's proposal, in an attempt to have their interests considered as early as possible in the budget process, and higher education community is no different.

3.2 The role of Michigan public universities in the state budget process

The Michigan higher education appropriations bill is deliberated and enacted in the same environment as other budget bills, with one important added variable, the constitutional autonomy of public universities. It is, in effect, a constitutionally autonomous special-interest actively involved in the

appropriations process. Within public higher education in general, each individual institution is a special interest unto itself and advocates as such on its own behalf.

Over the years, public universities have become very adept at playing the appropriations game. For instance, I am aware of only two public universities, the University of Michigan-Dearborn and Michigan State University, which do not employ a multi-client lobbyist firm. Michigan State University's geographic proximity to Lansing and its extensive network of alumni in the legislature and Executive Branch allows it to operate very effectively in the state capitol without the assistance of multi-client lobbyists. MSU is also one of two or three campuses that utilize more than one staff member in direct lobbying in Lansing. In addition to multi-client lobbyists, each campus but two, Lake Superior State University and Northern Michigan University, employs a fulltime government relations officer who is responsible for interacting with the state for budgetary and other purposes.

The Presidents Council State Universities of Michigan (PCSUM) operates very much like a trade association for Michigan's public universities. It is funded through fees from its 15 member institutions and operates an office in Lansing that serves in a coordination and facilitation capacity for its members. While the PCSUM is involved with several issues related to the operations of public universities, I will focus solely on its role in the legislature to influence the rate of tuition increases implemented by public universities in Michigan.

The Council often takes the lead in coalescing and implementing legislative strategies related to appropriations and higher education related legislative issues. It also serves as a forum for working out disputes between institutions that sometimes allow institutional competitive interests to get the better of them. Additionally, the PCSUM gives the public universities a unified platform to address such issues

as accessibility, public service and, of course, tuition. The executive director of the Council testifies before both appropriations committees, often at the beginning of the process in order to help set the tone for future discussion. The general content of his or her testimony and related material is thoroughly reviewed and debated by both the public university presidents and the state relations officers representing each institution prior to it being delivered. The council also issues joint declarations signed by most, if not all, campus leaders defining their collective position on issues, including tuition restraint. For most of the last several years, the PCSUM has issued a joint statement near the beginning of the appropriations process pledging tuition restraint assuming “adequate” funding from the state. The restraint is never defined in concrete terms and individual institutions may increase tuition significantly given their specific circumstances. However, the point of the documents seems to be more one of showing policy makers that universities as a group are aware of the issue and realize that they have to act with restraint rather than pledging to hold tuition increases to a specific level.

Public universities operate lobbying operations much like other special interest groups except for their stature as constitutional creations with elected or appointed boards of directors. The Presidents Council State Universities in Michigan attempts to host a meeting between the governor and the CEOs of each of the 15 campuses a few weeks prior to the release of the governor’s budget proposal. Each individual institution will attempt to take advantage of its own lobbying resources coupled with the direct assistance of members of the legislature who are alumni and/or represent the districts in which they are located. University affiliation is more important than political affiliation in this process. Former Governor Engler was a graduate of Michigan State University and this was made clear by his funding priorities in higher education. Former chairs of the House Appropriations Committee,

Dominique Jacobetti and Morris Hood, were very strong supporters of universities in their districts – Northern Michigan University and Wayne State University respectively. Senator John Schwartz, long serving chair of the Senate appropriations subcommittee on higher education, was well known for his partiality toward the University of Michigan-Ann Arbor from which he earned his undergraduate degree and for which he played football.

In the last decade, two universities have hired state government insiders to lead their campuses. Ferris State University brought on as president the retired Senator and former chairman of the Senate sub-committee on higher education appropriations William Sederberg, while Grand Valley State University hired former state treasurer and budget director Mark Murray as its president. Universities also have a history of hiring former state employees who have worked as department heads or fiscal analysts as their government relations officers in an on-going search for a competitive advantage in the budget process.

3.3 The role of the governor in the higher education budget process

As stated previously, Michigan’s governor plays the most influential role in establishing the environment and priorities of the overall appropriations process. This is also true concerning higher education where the executive branch not only initiates the budget bill but also plays an active role in negotiations related to the final outcome. The governor’s proposal may contain penalty provisions for “excessive” tuition increases, may be formulated in a way that distributes funding increases toward favored institutions, or may attempt to impose de facto funding formulae. The legislature is put in the position of having to react to and justify modification of the governor’s proposal. Before the full impact of term limits was felt on the legislature, strong legislative supporters of higher education would use the

governor's proposals as simply a starting point for legislative discussion. Even so, the governor's line-item veto power and ability to mete out political favors or punishment ensures that major legislative changes to the governor's original funding proposal have his or her acceptance.

It is my experience that the governor's ability to influence legislative changes to his or her proposal is extensive and hinges on the budget setting process wherein legislative leaders and the governor agree on how much money will be earmarked for each budget. The executive branch, in the form of the Department of Management and Budget, plays the lead role in this process that sets the amount of money available for negotiation in each of the budgets. This initial projection is then confirmed by a joint revenue estimating conference that includes the governor's administration and the majority leaders of both chambers as well as their economic and fiscal advisors. The projected amount of revenue sets the tone of the debate; is there enough revenue for extensive amendment of the governor's proposal or should the universities be happy with minimal across-the-board increases or even level funding or limited cuts?

3.4 The role of the legislature in the higher education budget process

While public universities are autonomous bodies of state government, they can be subject to some control by the legislative and executive branches, as was shown with the Police Powers issue. In various rulings, the Michigan Supreme Court has made it clear that while public universities in Michigan are autonomous, the legislature may attach conditions to special public university appropriations bill and may hold universities to those conditions if the university accepts the special funding provided by the bill. Of course, such legislative conditions cannot infringe upon the principle of the constitutional autonomy of public universities to manage and control university operations. Public universities may

accept restrictions that run counter to autonomy on a “voluntary” basis. Such was the case with the Research Excellence Fund (REF).

Public universities accepted REF money even though it required them to submit proposals for funding directly to the state. In effect, the state dictated university policy regarding these research projects by controlling what they would and would not fund. Barclay and Mohn state that this was a significant departure for public universities to subject themselves to such authority by the state. The legislature appropriated specific amounts of REF funding to each institution. Normally, the institutions would not allow for any control over how such funding would be utilized once it was appropriated. In this case, however, they agreed ahead of time to subject research proposals to an approval process established and operated by the state (Barclay and Mohn, 1988 p. iii). Today, as a result of university lobbying on the issue, REF monies are built in to each university’s base budget with no requirement to seek state approval regarding how the money is utilized. It appears that public universities won back legislatively whatever autonomy was lost by accepting REF funds when the program was state-operated.

“Legislative intent language” is another area wherein the legislature attempts to dictate policy to the public universities, such as limiting the number of non-resident students or requiring professors to be proficient in English. These provisions that are inserted into appropriations bills are usually struck down when challenged by universities. In general, the courts have ruled that when the legislature writes, “universities shall” in a higher education appropriations bill, they really mean, “universities may” (Barclay and Mohn, 1988 p. 16). Universities will, from time to time, go along with legislative intent language when it suits their political purposes. When doing so, they will make a pronouncement that they are doing it voluntarily and not in response to legislative proscription, thereby maintaining their

autonomy and not allowing the setting of a precedent.

An example of legislative intent that is now taken as a de facto accountability shift from the state government to the public universities and community colleges is found in the history of the Indian Tuition Waiver (ITW). The ITW has its roots in treaty provisions between the federal and state governments and various Native American tribes that populated much of the land of what is now the state of Michigan. In partial payment for selling or exchanging territory to the government, native tribes were to have access to free education, including post-secondary education. This entitlement was qualified by requiring a recipient of an ITW to prove at least a ¼ Native American bloodline and membership in an appropriate Michigan tribe. Depending on the policies of the institution that they attend, ITW recipients might also have to meet the federal financial aid standard of making academic progress toward a degree, and maintain a certain grade point average. A state appointed board representing Native American interests certified the blood quantum and tribe membership of ITW applicants. Public universities and community colleges kept track of ITW students and billed the state directly for their tuition, and the state then reimbursed the institutions with a two-year lag.

In 1997, Governor Engler determined that the ITW and the gubernatorial appointed board, among other things, oversaw its operation and were no longer needed. He stripped funding for the ITW from the higher education appropriation bill and eliminated the state board. Universities were faced with the prospect of losing two years of ITW tuition payments that would not be reimbursed by the state. Native Americans were angry that their treaty rights were being violated. The legislature stepped in and restored funding for an additional year, against the governor's wishes. However, since the certifying board had been eliminated, the Presidents Council had to work directly with tribal groups to develop a

stopgap method of certifying students for the ITW.

In the following year's higher education appropriation bill, the governor once again removed all funding for the ITW. Faced with the prospect of a threatened line-item veto by the governor should the funding be reinstated, sympathetic legislators developed a method by which they were able to place funding for the ITW in the base budgets of each university. The legislature took a three-year average for ITW expenditures at each institution and added that amount to each institution's base budget. The governor would have had to veto each university's operating budget in order to counteract the legislature's action.

The legislative leaders involved in this restoration of ITW funds sent a letter to university presidents and chancellors describing their intent and indicating that the added monies should be designated for funding ITW payments at each institution. It was assumed that if an institution saw an increase in Native American enrollment, they would have to absorb that cost. It was also assumed that if the reverse happened, an institution saw Native American enrollment decline, unused ITW funds would be assimilated into the institution's general fund.

I was a participant in discussions concerning the development of a response by public universities to this arrangement. I understood that the motivations of the public universities centered on attempting to assist the legislators who crafted this arrangement and who were also key supporters of higher education in the appropriations process. There was also some concern that Native American students would sue individual universities instead of the state should they be refused a tuition waiver. The Presidents Council finally agreed to go along with this proposal with the understanding that the universities were not accepting the transfer of the state's treaty obligations. While the Presidents

Council states that public universities have not accepted the state's obligation to Native Americans, they have, in my opinion, done just that.

3.5 Final word on Michigan's higher education appropriations process

It is important to note that higher education budget proposals in Michigan rarely do more than present alternative ways to distribute appropriations increases or cuts as the case may be. Typically, the governor and Senate and House leaders meet to set budget targets based on projected revenues for the coming fiscal year for each of the state's budgets, including higher education. This dollar amount is then subject to being folded and spindled to placate special-interests. There is no attempt at zero-based budgeting. The real issue is how to distribute the increase or cut, rather than determining how to structure the budget to meet legitimate or demonstrable state or institutional needs.

4.0 Attempts to restrain tuition in Michigan: background

The legislature and the governor have both political and public policy interests in ensuring that public higher education remains affordable for Michigan residents. When they have attempted to directly control tuition their actions have been nullified by the state courts that ruled them to be unconstitutional infringements of the autonomy of public universities. What remains are indirect methods of influencing tuition setting behavior of universities by Michigan's state level policy makers.

This section will first explain how such increases are measured and discuss the unintended consequences of that methodology, describe in general how tuition is set at public universities in Michigan, provide a cursory examination of the variables impacting tuition trends over the last 25 years and then will closely examine three methods by which the governor and the legislature have attempted to control tuition policy, namely: influencing boards of trustees, enacting tax credit legislation, and using

tuition capping provisions in funding bills.

4.1 Defining tuition increases – the problems of counting the cost

Understanding how tuition is set and tracked in Michigan helps one better understand some of the actions of the state government in attempting to restrain tuition increases. Tuition increases are calculated, reported and tracked year to year on a percentage basis. That is evident both throughout this paper and in just about any other research conducted on the issue of tuition. Percentages provide an easy way of defining and comparing relative cost increases but tell very little about affordability, and nothing about academic quality or the financial situation of an institution. Nor do percentages convey the true impact of the long-term inter-relationships among the relevant variables. Simply because tuition at a specific institution may have risen dramatically on a percentage basis relative to other institutions does not mean that that institution is no longer affordable, or even a lesser value than before. What is more important than percentage increases is the absolute dollar amount that a student pays. If a relatively expensive institution raises tuition by 5% and a relatively inexpensive institution raises tuition by 10%, in which case is the additional cost to students higher? It could very well be that the out-of-pocket real dollar increase is the same for students at both institutions. It may also be the case that even though the dollar amount increased per student was the same at each of these hypothetical institutions, the dollar amount generated in new revenue by each could be very different.

What does this mean for state policy makers and the institutions themselves? First, it means that across-the-board percentage based appropriations increases and/or tuition caps are inherently unfair to smaller, lower-funded, less expensive institutions that generate less revenue per percentage point of increase than more expensive or larger institutions. The less expensive institutions have a lower dollar

starting point on an individual student basis and have smaller student bodies across which the increase would be applied. The operating costs of smaller schools should be proportionally lower than larger ones but some costs are roughly uniform regardless of institution size.

An example of institutions of dissimilar size having similar costs could relate to energy costs at a small institution with an old inefficient infrastructure compared to a larger institution with a newer more energy efficient campus. Both institutions may face an identical dollar increase in energy costs but the smaller, older institution may find that it would have to increase tuition to students a higher percentage than the larger newer institution. Another example would be a small institution that emphasizes small class sizes taught by tenured faculty, and a larger institution with large classes taught by adjuncts or graduate students. Both may face a similar dollar amount increase in staffing costs, but the percentage increase in revenue required to meet that burden would increase tuition at the smaller institution at a far greater rate than at the larger institution. Across-the-board percentage-based appropriation increases and tuition caps equate to a “one-size-fits-all” approach to revenue that will, over time, force smaller institutions into a state of mediocrity.

Percentage-based tuition increases can often be simplistically reported out of context for overall price increases. For instance, if one looks at three consecutive years and the reported tuition increases - 1980-81: 16%, 1981-82: 15.7%, and 1982-83: 13.7% - one would assume that the year of highest real dollar cost increase was 1980-81 at 16% and the year of lowest increase was 1982-83 at 13.7%. However, after correcting for the relatively high rate of inflation for these three years we find that the opposite is true; 1980-81 saw the lowest increase of the three years at a corrected 4.3% while the 13.7% reported in 1982-83 is actually the highest real increase of the three at an inflation adjusted rate of 9.9%.

A 16% nominal tuition increase is far more likely to make front page headlines than a 4% real tuition increase and far more likely to incense voters and influence politicians to “take action” against high tuition. (Note: Economists refer to this frequent confusion between nominal and real variables as “money illusion.”)

Since tuition and fee rates are based on a computation of an average cost to the average student at each institution, tuition becomes a sort of hypothetical variable that can have wide-ranging unintended consequences on university operations. An example of this would be an attempt to modernize a university’s tuition structure in a way that may change the average tuition reported by a double digit percent increase but would in reality mean a far lower increase to a relatively small portion of the institution’s student body. Universities will hesitate to make such a change, even though it would make operations more efficient and benefit most students, since it will be reported as a huge tuition increase when only a modest one may have in fact occurred. Focusing on percentage increases of average tuition rather than real dollar out-of-pocket increases or the actual increase in tuition revenue generated, which would account for changes in enrollment, skews the debate of tuition increases away from actual new expenses for students and toward less informative and easily misunderstood abstractions.

Relying on percent changes in tuition forces policy makers to compare tuition increases to changes in the Consumer Price Index (CPI). This often leads to arguments about whether the 350 goods and services tracked by the CPI accurately reflect the cost pressures faced by higher educational institutions. The creation of the Higher Education Price Index (HEPI) was viewed by some as the answer to this problem, although it has not sidelined the CPI as the main benchmark by which tuition increases are judged.

Related to the applicability of CPI price increases as a benchmark for tuition increases is the issue of timing. The official CPI for a year is certified only after that year is over. Legislative policies that have relied on CPI to guide or restrict tuition increases usually apply the previous year's CPI to the current year's tuition. This lag could place an additional cost burden on institutions during times of rapidly increasing inflation.

It is important to note that some sources track the average tuition increase of the fifteen public institutions while others track the weighted average of amount of tuition paid by all public university students in Michigan or the nation. In the first case one simply takes the sum of the official tuition rates reported by the fifteen Michigan public universities and then divides that number by fifteen. In the second case, the weighted average takes into account the enrollment of each institution in order to determine the weighted average rate paid by the average student. Since the Michigan legislature only considers the non-weighted average, that is what this study focuses on.

A final issue related to tracking tuition using percentages is the impact of the shifting ratio of dependence between tuition and state appropriations. This is a serious though subtle long-term issue that will impact the politics surrounding tuition and appropriations for years to come. This "shifting cost ratio effect" will be examined more closely in the section concerning the potential variables that impact tuition and in the conclusion.

4.2 The process of setting tuition and fees

The 13 university governing boards in Michigan are responsible for setting tuition and fee rates at their respective institutions. The process begins when an institution's president or chancellor presents the institution's annual budget to his or her board. Tuition and fees are a key part of this discussion

since they make up such an important part of the overall revenue stream for universities.

As with any seasoned executive presenting an important proposal to his or her board, university presidents and chancellors have a very good idea of what level of tuition increase will be acceptable to their board before it is presented. While boards may always ask an executive to reduce a proposed tuition increase, such requests and related informal negotiations usually take place well before the actual vote and usually out of sight of the public.

In 1990, the Michigan Senate Select Committee on Higher Education issued a report regarding tuition policies at state colleges and universities. The report details two methods used by universities to determine the amount by which tuition will be increased for a coming year. The first method focuses on the programmatic needs of a given university and what mix of tuition, appropriations and other funding will be needed to meet the financial demands of those needs. In this scenario, planned expenditures (based on programmatic needs) are first subtracted from appropriations and other non-tuition revenue. The remaining balance would then be covered by tuition revenue. The degree to which current tuition revenue fails to cover those costs would then become the amount of increased tuition needed by the institution.

In the second approach, institutional leaders first look at what level of tuition increase can be supported by market demand and then add appropriations and other income to the mix. This approach favors cost containment and reprioritization of the university's programmatic goals. This is sometimes referred to as "growth through substitution." Institutions utilizing this approach understand that they exist in an environment of limited revenue and limited demand and therefore must adjust both the price of their product and the content of the product to meet market demands. This approach assumes that

tuition impacts enrollment. Program needs are thus constrained and shaped by the desire to maintain or increase enrollment growth patterns.

Tuition for the fall semester is usually set in the late spring or early summer. By this time, the higher education budget is at least half way through the appropriations process if not already completed. When university boards decide tuition for the coming academic year, they either know the rate of appropriations that was enacted or have a very good notion of a possible range of appropriations based on pending legislative proposals.

4.3 A word on statistics and sources

The statistical analysis used in this study relied upon standardized and uniform data from various official sources. The following data sources were used:

- Michigan Tuition: Senate Fiscal Agency average tuition as reported by institution (not weighted for enrollment)
- National Tuition: National Center for Education Statistics, Digest of Education Statistics 2002
- Student Enrollment: House Fiscal Agency, Converted Undergraduate Fiscal Year Equated Students
- Public University Appropriations: Unpublished Senate Fiscal Agency data as tracked by Senate appropriation analysts. Includes base appropriations to institutions in addition to general fund line item appropriations.
- Ratio of appropriations to tuition: Presidents Council State Universities of Michigan
- Detroit-Ann Arbor-Flint Consumer Price Index: U.S. Bureau of Labor Statistics

Additional sources used to confirm or add perspective to the above include:

- Presidents Council State Universities of Michigan enrollment and tuition reports
- The College Board: Trends in College Pricing 2003
- Michigan Higher Educational Institutional Data Inventory (HEIDI) for enrollment, tuition and appropriations

4.4 Variables affecting tuition: 1979-80 to 2003-04

This study will attempt to take into account three factors that impact the rate of tuition increase for Michigan public universities: 1) the rate of inflation as measured by the Detroit-Ann Arbor-Flint Consumer Price Index (DCPI), 2) level of state appropriations, and 3) enrollment trends.

Additional variables that might have a disproportionate impact on higher education but were not covered by this analysis include the increasing demand for computer technology, increased funding for or the creation of new state and federal financial aid programs, unemployment and its impact on college enrollment, stock market and general economic performance that impact discretionary income, the presence of and pricing for competitive private or proprietary colleges and universities, high school graduation rates, the states reduction of building and construction related funding, and the rising cost of health care. I mention these only to point out the breadth of variables that could potentially impact tuition decisions by public universities in any given year.

4.4a Detroit Consumer Price Index: There is a rough correlation between annual inflation measured by the DCPI and annual percentage increases in the average tuition at Michigan four-year public universities. Over the 25 years of this study, DCPI has increased an average of 4.6% per year while tuition increased 7.87% per year. For six of the 25 years, increases in average tuition were below inflation. In years when tuition was increased significantly higher than inflation, there was a corresponding decrease in state appropriations. The reverse is also true, i.e., during years of relatively high percentage increases in state appropriations, average tuition increased at a rate below or close to inflation.

Figure 1 below tracks the relationship between tuition and DCPI. An examination of this graph shows an obvious correlation between tuition increases and DCPI at Michigan public universities. In general, when DCPI increased, tuition increased. During the eight years when tuition increases were at or below inflation, appropriations were increased for all universities, or sufficient special funding was provided to enough universities to moderate the aggregate tuition increase for that year. The effect of appropriations on tuition will be examined in more detail in the section concerning legislative tuition restraint initiatives.

Figure 1. Average increase in tuition at Michigan public universities versus inflation

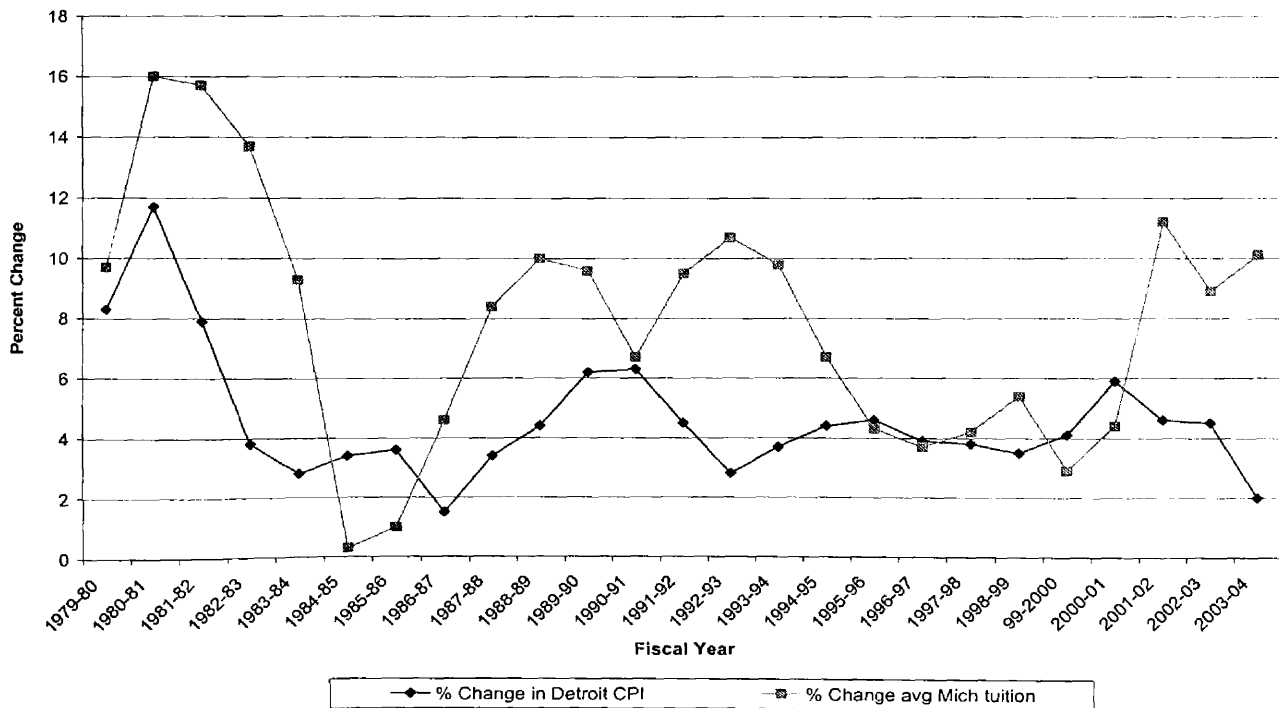
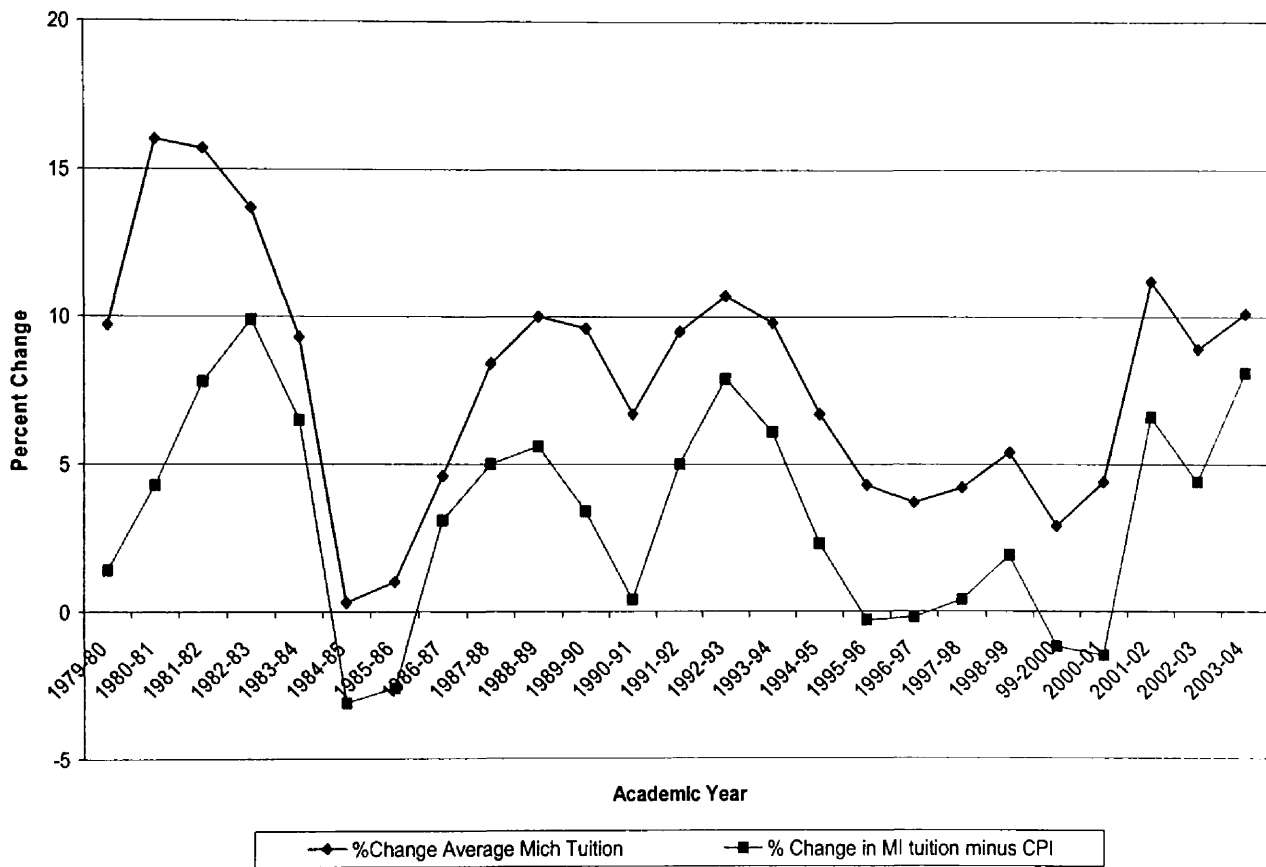


Figure 2 below compares the annual percentage rate of nominal increase in tuition and the inflation-adjusted, real annual tuition increase.

Figure 2. Nominal and corrected increases in Michigan public university tuition



In Figure 2, one can more clearly see the years when tuition decreased in real terms or remained flat in real dollars as those points will be below or near the x-axis: 1984-85, 1985-86, 1990-91, 1995-96, 1997-98, 1999-2000 and 2000-2001.

It is important to keep in mind that universities decide on tuition and the state government

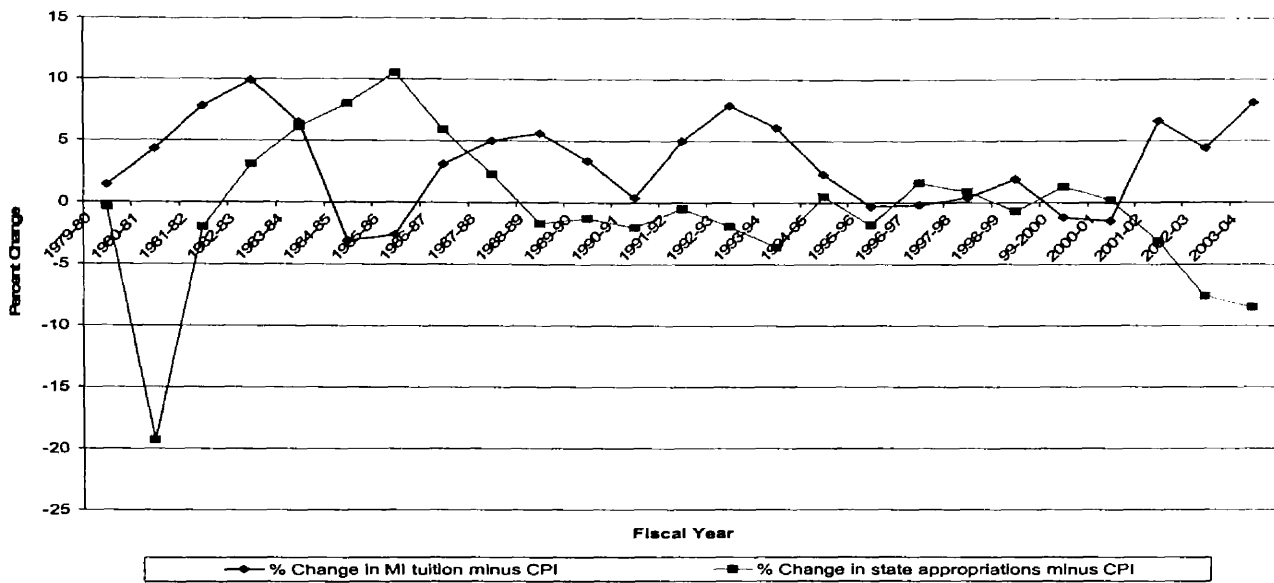
decides on appropriations without knowing what the DCPI will be for the coming year. What may seem like a generous appropriations increase at the start of the year may end up well under the rate of inflation by the end of that year. The same holds true for tuition.

4.4b State Appropriations: State appropriations have been singled out as the single most important factors influencing the rate of tuition increase. In September of 1998, the U.S. General Accounting Office (GAO) published a report entitled *Tuition Increases and Colleges' Efforts to Contain Costs* (GAO Document: GAO/HEHS-98-227). This report found that annual state appropriations had a -0.144 correlation coefficient with the annual change in tuition from 1989-90 to 1995-96 (Ibid page 28).

For the 25 years of this study, appropriations for higher education in the state of Michigan increased an average of 4.06% per year, about ½ percent less than the average increase of DCPI at 4.60% per year. As shown in the Figure 3 below, there is a clearly observable counter-cyclical effect between appropriations and tuition. When appropriations are raised by a low percentage, tuition goes up by a comparatively high percentage. When appropriations are raised by a higher percentage, tuition stays flat or goes up by a lower percentage.

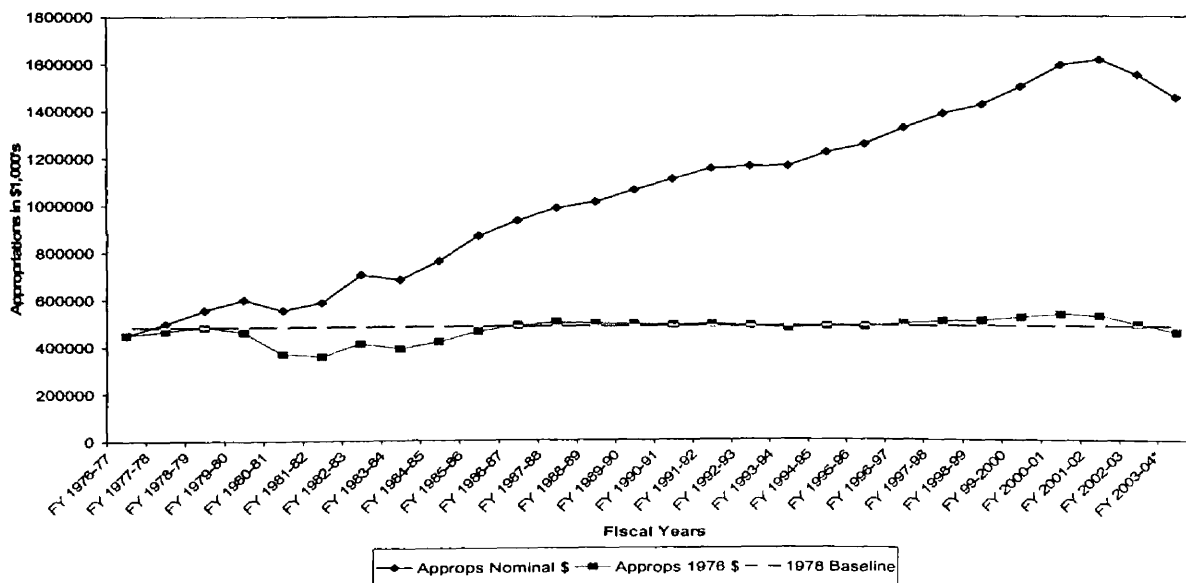
Tuition rates are usually set by Michigan's public university boards after levels of state appropriations are known. Some institutions enact tuition increases prior to the passage of the appropriations bill and have been known to lower (raise) tuition increases should appropriations come in higher (lower) than expected or should additional (less) money be earmarked for their institution. In years when appropriations have been cut, institutions have threatened to enact mid-year tuition increases to help make up for the loss.

Figure 3. Corrected change in Michigan public university tuition versus state funding



Overall, state appropriations in Michigan to public universities has fallen far behind the rate of inflation as is evident in Figure 4.

Figure 4. Public university appropriations in Michigan: constant versus nominal dollars

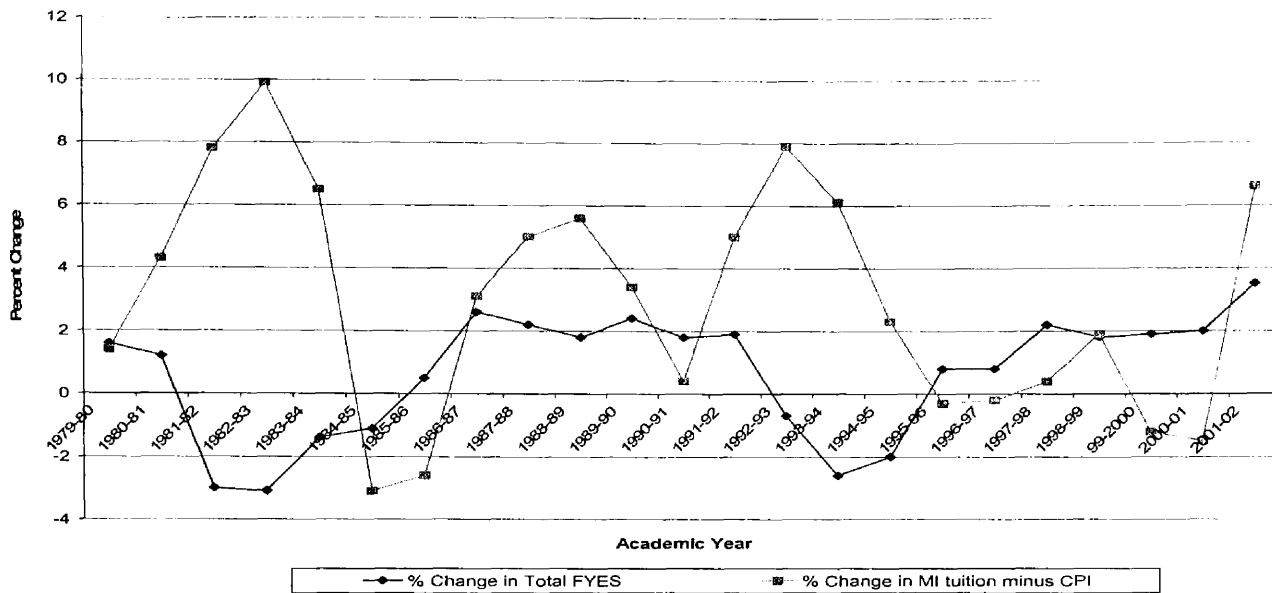


As at the national level, there appears to be a fairly consistent inverse correlation between the level of state appropriations and tuition increases in Michigan. In general, the higher the percentage increase in appropriations from the state of Michigan, the lower the increase in tuition. Conversely, the lower the percentage increase in state appropriations, the more likely tuition is to rise (Ellen Jeffries, Senate Fiscal Agency State Notes – Tuition at Michigan’s Public Universities: March/April 2003). This pattern is especially true during years when the level of increase in appropriations is near or below inflation.

4.4c Enrollment: Enrollment at state universities in Michigan has increased in 17 of the 25 years in this study. It is difficult to determine a visual correlation between changes in enrollment and changes in tuition. In some years enrollment went down when tuition increased at a rate much higher than inflation as in 1981-82, 1982-83, 1993-94 and 1994-95. In other years enrollment either increased or remained flat during years of tuition increases such as 1985-86 through 1989-90, and enrollment actually went down slightly when tuition dipped in 1990-91. From the mid-1990s through the early 2000s, enrollment increased at a 1 to 2 point rate for each of these years while tuition increases fluctuated between 4 and 5%. The highest increase in enrollment during this period also saw the highest increase in tuition: 2001-02.

Public universities typically cite enrollment increases as a prime driver of tuition increases. This effect can be seen somewhat in the Figure 5 below. In the mid and late 1990’s peaks in tuition increases are preceded by a peak in enrollment in the year before.

Figure 5. Corrected increase in Michigan public university tuition and enrollment



To get a better feel for the impact of enrollment on the cost of higher education, one would have to examine enrollment, tuition and appropriations trends, institution by institution. The enrollment experience of each of the 15 universities may vary widely from year to year. Using aggregate data balances out enrollment increases at some institutions with enrollment decreases at others.

5.0 Attempts to restrain tuition: three examples

As was noted in the previous section on the constitutional basis for the autonomy of Michigan public universities, the legislature’s past attempts to directly control tuition-setting policy were rejected by the State Supreme Court. Therefore, only indirect methods are available for use by state policy makers to control tuition. This section will review three such indirect attempts to influence tuition-setting policies by the Michigan legislative and executive leaders. The time frame for this examination

was dictated by the availability of reliable and consistent data - from the late 1970s to the present.

I will use two means by which to judge the state government's degree of success in restraining tuition increases at state public universities. First, I will use the traditional benchmark of comparing tuition increases to inflation measured by the DCPI. Second, I will take into account appropriations, and compare inflation adjusted changes in tuition to changes in state appropriations.

There are three prime examples where the Michigan state government - by way of the legislature, the governor or both - has attempted to indirectly restrain tuition increases by Michigan public universities since the early 1980s. The first method was the influence governor's apply on the individual members of the institutional governing boards; the second strategy was the enactment of the Tuition Tax Credit; and the third was inclusion of tuition restraint language in higher education appropriations bills by the legislature. These three examples are discussed separately, although there is some degree of overlap. Tuition increases at Michigan public universities will be compared annually with the DCPI and national trends. Years in which attempts were made to restrain tuition will be compared to years prior to and after such indirect attempts were made.

5.1 Influencing public university governing boards

In accordance with Michigan's Constitution of 1963, the governor appoints 10 of the state's 13 public university governing boards with review by the state's Senate. The other three boards, namely those for Michigan State University, the University of Michigan (covering all three of its campuses) and Wayne State University, are elected directly by the voters on a partisan basis. Candidates for these elected board positions are nominated at their respective political party conventions. Usually, as the leading political figure for his or her party in the state, the governor or leading gubernatorial candidate

plays an important role in making these nominations for the party. Additionally, the electoral success or failure of candidates for elected university boards often follows that of their party's candidate at the top of the ticket for the state ballot. Thus, the political fortunes of candidates running for university boards are very dependent on the success of the governor or their party's gubernatorial candidate. Tuition rates are a common issue during university board campaigns (GNS Michigan Report October 29, 2002).

Given the above, it is a reasonable assumption to expect that the governing boards of public universities, especially those appointed directly by the governor, would be subject to the influence of the person to whom they owe their board position. This assumption can be tested by comparing the rate of change in tuition during years when the majority of public university board members matches that of the sitting governor with years when the majority of board members were of a different political party affiliation than the governor.

During the years studied – 1980 to 2003 - there have been four governors: Milliken, Blanchard, Engler, and Granholm. Since members of university boards serve for eight-year terms and two seats on each board are up for election every two years, by the fourth year of a governor's term, he or she should have been able to appoint a majority of members to each of the appointed boards. This outcome assumes that an incoming governor is able to make such appointments during the first few months of taking office, which was the usual practice until 2003.

During the time-frame of this study, the years of interest would be 1979/80 – 1982/83 for Milliken (R); 1986/87 – 1990/91 for Blanchard (D); 1994/95 – 2002/03 for Engler (R). The last years of the Milliken administration saw significant cuts to higher education as a result of a deep recession in the early 1980s. Tuition rose above the rate of inflation but at a rate less than one might assume given the

magnitude of the cuts. Using Detroit CPI as a benchmark, tuition rose at a rate almost twice that of inflation. Tuition rates at Michigan public universities rose an average 12.9% during the period from 1979-80 to 1983-84. DCPI during this same period rose at an average rate of 6.9% each of these years. On a percentage basis, such tuition increases may appear excessive; in fact they are the highest increases during the time-span of this analysis.

An important factor to keep in mind that helps put these increases in perspective is that public universities were much more reliant on appropriations during the time of this drastic cut than they are today. According to the Presidents Council, the ratio of appropriations to tuition revenue was approximately two dollars of appropriations for every dollar generated in tuition revenue, or approximately 67% appropriations to 33% tuition. By the year 2003, the Presidents Council estimates that the ratio is now closer to 45% appropriations to 54% tuition. During a period of a two-to-one ratio of appropriations to tuition, to just stay even with total revenue, universities would have had to increase tuition by two percentage points for every one point of decreased appropriations. Given that, one would assume that public universities would have increased tuition more than the 16% increase that was enacted for 1980-81, a year where appropriations were cut 7.6% and inflation was almost 12%.

Milliken's successor, James Blanchard (D), gave rising tuition costs a high profile. Governor Blanchard vowed to force public universities to keep higher education affordable by severely restraining tuition. The early years of his administration saw tuition increases from just under 10% to just over 15%. State budget problems resulted in executive order cuts of 3.7% for higher education in mid-year 1983. The second two years of Blanchard's first term were very different. He succeeded in mandating that universities accept zero growth in tuition during the 1984-85 and 1985-86 academic years – years in

which the majority of board members would have been appointed by his Republican predecessor. Blanchard aggressively lobbied university boards to not raise tuition in 1984 and stated in his State of the State address in January of 1984, "I fully expect, and times demand, that the trustees and administrators at each of our colleges and universities will freeze tuition rates for the 1984-85 school year." (Press Release, Governor's Office, August 14, 1984). His proposed 6% increase for higher education appropriations that year was provided as an incentive. Blanchard publicly shamed two holdout universities that planned increases of 4.3% and 4.8% clearly implying that they did not have the interests of students or working families at heart (Statement by Governor James J. Blanchard, July 27, 1984 and GNS Michigan Report, July 27, 1984) and then showered praise on them and their counterparts when they withdrew their increases and agreed to the tuition freeze (Governor's Office Press Release 8/14/84). According to the governor, this commitment to freezing tuition was a positive step for public universities as, in his words: "This tuition freeze will make it easier for us to marshal (sic) strong public support for higher education because it provides evidence that our great universities are making an effort to keep their costs in line" (Ibid). Blanchard was successful in winning a partial freeze in 1985 trading increased appropriations for commitments to severely restrain tuition. Blanchard's proposal gave public universities that abided by the tuition freeze a 10% increase in state appropriations. For every 1 percent of tuition increase, an institution would see their state funding increase reduced by 0.2 % (GNS Michigan Report, February 1, 1984).

Blanchard's use of a combination of carrot and stick succeeded for two years running in 1984-85 and 1985-86. While tuition nationally rose at an average of 10.3% and 7.9% for 1984/85 and 1985/86, Michigan saw minimal tuition increases of 0.3% and 1.0% for the same years. The carrot was the largest

year-to-year appropriations increases given to higher education over the entire period of this study: 11.4% (1984-85) and 14.1% (1985-86) during a time of modest inflation of 3.4% and 3.6% respectively. The stick was the threat of retaliating against those institutions that went against his mandate by dramatically cutting their appropriations. It is important to note that none of the appointed public university boards had a Democratic majority at this point in time. Blanchard, a Democrat, was able to effectively influence Republican boards in a way that no other governor before or since has; party affiliation was not a deciding factor. With the “power of the purse” wielded by the governor, party affiliation was a secondary consideration.

Clearly the high appropriations offered as an incentive during these two years allowed Michigan public universities to accept severe restrictions on tuition increases. It is vital to the understanding of overall tuition trends in Michigan to keep in mind the ratio between appropriations and tuition revenue. The ratio of appropriations to tuition at the time of the mid-1980s was nearly 2 to 1 according to the Presidents Council. Thus the increase in appropriations more than made up for the opportunity cost of the lost tuition revenue, as universities could count on two appropriations dollars for every tuition dollar.

Barclay and Mohn give Blanchard credit for significantly dictating the tuition policies of Michigan’s public universities in 1984-85 and 1985-86 where he held the universities to a “zero” increase and in 1986-87 where Blanchard threatened vetoes of institutional budget line items if public universities did not reduce tuition increases below 10% (Barclay and Mohn, p. 20). While Blanchard is remembered for aggressively controlling tuition during the early part of his tenure as governor, the trend for higher education appropriations for the remainder of his term was downward with tuition increases reflecting a strong inverse relationship. By the last four years of his term in office, the majority of the

members of appointed university boards owed their appointment to him. During this time, tuition ranged from 3.5% - 5.6% above inflation while appropriations fell -0.5 to -2% below inflation. The average increase in tuition during Blanchard's first term – in which he had not appointed a majority of board members was 6.1% per year while appropriations was 10.3% and inflation was 3.4%. During his second term, by which a majority of appointed university board members would have been his appointees, tuition increased an average 8.2% per year, appropriations went up 5.2% and DCPI increased by 3.9% per year. It appears that during Blanchard's second four years in office, a time when Blanchard should have had more influence over the appointed boards, tuition went up faster while the increase in appropriations was half of what it was during the first four years of his administration.

Governor Blanchard served two terms and ultimately lost a reelection bid to Republican John Engler in 1989. As outgoing governor, Blanchard did not fill vacant university board positions and allowed Governor Engler to begin appointing Republicans to university boards almost at once. By 1994, Engler had a majority of Republicans on each of the appointed boards. For the first four years Engler was in office, appropriations to higher education were below the rate of inflation as a result of significant shortfalls in state revenues.

During this time, Governor Engler used a much more subtle approach to the public universities than that of Blanchard, his predecessor. Engler worked closely with the legislature to offer tuition restraint incentives in the appropriations bills for higher education. Engler's efforts will be detailed in the section on tuition restraint legislation below.

During Engler's time in office, tuition increased in a fairly inverse manner to appropriations, with the exception of 1989-90 and 1990-91, where tuition increases dipped slightly. During these two years,

the legislature adopted what was called “Tuition Stabilization” funding, which provided additional funding to universities that kept tuition increases below a specific level. There was also added funding for research projects and university consortia on a variety of topics. In 1990-91 Governor Engler deleted the boilerplate language related to this funding but kept the base amount of more than \$8.7 million in the higher education budget (State budget summaries, Public Act archives, 1991).

Engler expressed concern about rising tuition but did not actively intercede with university boards in the manner of Blanchard. During Engler’s term of office, appropriations for higher education were below the rate of inflation for seven of 12 years. For the five years when appropriations for higher education exceeded the rate of inflation, they did so by 1.6% or less. By the mid-1990s, Engler appointees comprised a majority of members of the appointed boards of directors. After increasing at a rate of more than 5% above the DCPI for three of the first four years of Engler’s administration, tuition increases fell to within one or two points of inflation for the remainder of his term in office. The year of steepest year-to-year decline in tuition increases, 1994-95, was also the first year that appropriations increased faster than the DCPI up to that point in Engler’s administration.

During Engler’s first term in office, tuition went up on average 9.2% per year while appropriations increased by an average of 2.3%, and the DCPI went up by 4.3%. Tuition increased at a rate double that of inflation while appropriations was increased by half the DCPI. During the second and third terms of the Engler administration, when he would have had solid majorities on all of the appointed boards, tuition increased annually by 5.4%, appropriations by 4.2%, and inflation by 4.4%. It might be inferred from the low point spread between tuition and DCPI, especially during a time when appropriations were not keeping pace with inflation, that Engler was able to influence university boards

to restrain tuition increases during his second and third terms.

Before Engler left office, he filled the university governing board seats that were scheduled to expire on December 31, 2001, the day before the new governor was to be sworn in. He claimed that since he was governor until noon on January 1 and the appointments expired at midnight on December 31, he was within his authority to make these appointments regardless of past traditions. State Democrats vigorously disagreed and considered a legal challenge to Engler's end of term appointments (GNS Michigan Report October 24, 2002). The Republican majority of the Senate concurred with Engler and consented to his appointments before they recessed at the end of the year. The Democrats gave up their challenge.

By the time Engler left office in January 2002, the state budget situation was grim. A national economic downturn exacerbated by the terrorist attacks of September 11, 2001 and Engler's decade-long priority on cutting taxes left the state facing severe budget shortfalls. For the 2002-2003 budget year, Engler's Democratic successor, Jennifer Granholm, implemented a 3.75% mid-year cut in higher education appropriations, followed by the 2003-2004 budget bill that reduced higher education funding by another 6.5% for a total 10% reduction in funding between 2002-03 and 2003-04. Public universities responded with tuition increases that averaged approximately 10%. The Detroit News published an editorial stating that public universities were defying the governor, and they might be punished by suffering greater cuts or restrictions in state aid available to students (Detroit News, June 4, 2003). The governor apparently felt that universities violated the terms of the appropriations bill that stated that universities would keep their tuition increases at a "reasonable" rate. By the first quarter of the 2004 fiscal year, it became apparent that state tax revenues were falling significantly behind projections

resulting in a more than \$900million deficit. Governor Granholm responded with mid-year executive order budget cuts that included a 5% across-the-board cut to public universities.

When Governor Granholm's first appointees to university boards appeared before the Senate committee responsible for reviewing their appointments, Republican leadership made their consent subject to the appointees signing a tuition restraint pledge tying tuition increases to the rate of inflation. In the end, the appointees, with the support of the governor, refused to sign the pledges, and Senate Republicans responded by allowing the appointments to occur without their consent. The governor made clear to each of the appointees that tuition must be kept reasonable, but was not willing to subject them to signing a restrictive pledge (GNS Michigan Report October 1, 2003).

While there does seem to be some give and take between governors and governing boards, the impact of this relationship is overshadowed by the impact of appropriations. In every case where a governor succeeded in restraining or reducing tuition the appropriations carrot was used to motivate the desired behavior. It may also be the case that influence works in two directions. As more board members owe their positions to the sitting governor, he or she may have more sway over the boards but the boards have more access to the administration and may influence decisions for higher appropriations in return for lower tuition.

5.2 The Michigan Tuition Tax Credit

The Michigan Tuition Tax Credit (TTC) was enacted with the passage of Public Act 7 of 1995. The TTC originally provided a tax credit of 4% of the total cost of undergraduate tuition and fees or \$250, whichever was lower, to Michigan residents who attended a Michigan based public or private university or college that did not raise tuition more than the rate of inflation for the previous year. This

tax credit is available for not more than four tax years per student/claimant to families whose income does not exceed \$200,000 annually. It is a non-refundable tax credit meaning that the amount of the tax credit cannot exceed the amount paid by the taxpayer in income taxes for that year. In 1997, Public Act 7 of 1995 was amended to increase the credit amount from the lower of 4% or \$250 to the lower of 8% or \$375. This increase took effect for the 1998 tax year (MCLA 206.274). The percent and dollar caps on this tax credit mean that even those students attending the most expensive public university, the University of Michigan – Ann Arbor, would never be able to receive the full amount of the credit.

In 1995, the first year the tax credit was in force, 4 out of 15 public universities kept their tuition increases at or below the rate of inflation for the previous year. In 1996 and 1997, 10 schools qualified although not always the same 10 schools for each year. In 1998, students from 7 public universities benefited from the TTC. With CPI nearing historic lows in 1999 and 2000, no university qualified in 1999 and only 1 school of the 15 qualified in 2000. Since that time, no public university has met the qualifications of the TTC (Public Document: Michigan's Experience with the Tuition Tax Credit, Michigan Department of Treasury Office of Revenue and Tax Analysis, July 2001).

While the numbers above might seem impressive, Michigan State University, qualifying 4 years, was the only 1 of the 15 universities qualifying for more than 3 years. MSU would have qualified in only 3 years but a late night end-of-session amendment to the tax code changed the benchmark for 1996 to 3% instead of the actual rate of inflation, which was a few tenths of a percent lower. This allowed MSU to qualify, as it had raised tuition to just below 3% for that year. Two universities did not qualify in any of the years between 1995 and 2001 and the remaining universities seesawed between one or two years of qualifying and enacting higher tuition increases.

By 1999, Governor Engler, who originally was a prime supporter of the TTC, was working actively for its repeal stating that the money would be better invested in higher education appropriations that tied increases in appropriations to tuition restraint (GNS Michigan Report, June 30, 1999 and May 11, 2001). Engler attempted to motivate the repeal by including the money set aside for the tax credit for the 2000 tax year in the 1999-2000 higher education budget, an amount of approximately \$34 million. In a budget-related document titled "Tuition Restraint Incentive Grants" dated February 9, 1999, the Engler administration built the argument in favor of repealing the TTC and replacing it with a new grant to universities equal to 1.5% of their past year's appropriation. The document argued that the expected low rate of inflation would mean that very few families would qualify for the credit next year as it was unlikely that universities would keep their tuition increases at or below such a low rate. It would be more beneficial to Michigan families, according to the document, for the money to be given to the 15 public universities on the basis of their attempts to keep tuition "affordable." The document continues stating that under the TTC some institutions engaged in a pattern of "very large increases every two or three years, and more modest qualifying increases in other years. The average of these years' increases often exceeded inflation, defeating the purpose of the tuition tax credit" (Tuition Restraint Incentive Grants, Department of Management and Budget document February 9, 1999).

Under Engler's proposal for the 1999 budget year, a set of schools that had experienced rapid growth would receive higher appropriations based on enrollment. The remaining institutions would get 1.5% increases without the repeal of the tax credit, and an additional 1.5% with repeal assuming that they kept tuition increases to less than 3%. The Presidents Council issued a statement signed by all 15 campus CEOs supporting repeal stating that increased base appropriations was the only proven method

for moderating tuition increases. The statement did not include any commitment regarding tuition restraint (Presidents Council Statement on Repeal of the Tuition Tax Credit April 27, 1999).

The repeal, which ultimately failed, became a very hot political issue with “tax cutting” Republicans and “family friendly” Democrats both coming out in opposition (GNS Michigan Report February 11, 1999). Governor Engler stated at the time, “I believe that directly tying appropriations to tuition restraint will be more effective in making higher education affordable than the tuition tax credit” (GNS Michigan Report June 30, 1999).

Over the next two years, Governor Engler attempted to repeal the TTC and came the closest in 2001 when a bill authorizing repeal passed the Senate but failed in the House. The apparent reason for the failure was the inability of the legislature to agree upon a method for distributing the additional money that would have been earmarked for higher education appropriations (GNS Michigan Report, October 18, 2001). The issue took on political overtones, an example of which are the comments of the leading Democratic legislator on the issue stating that the Republican administrations attempts to repeal the tax credit makes it look “like the governor wants to increase tuition on students” (GNS Michigan Report February 8, 2001).

The Presidents Council, being sensitive to the concerns of legislators for some form of tuition restraint in lieu of the Tuition Tax Credit, announced the Michigan Tuition Reduction Initiative. Under the terms of this initiative, 14 of 15 campuses agreed to maximize institutionally funded student financial aid and agreed to continue “responsible cost containment measures for the coming year” (Presidents Council document: The Michigan Tuition Reduction Initiative 2001). The presidents and chancellors via this document stated that the one source open to the legislature for the added funding

needed to reduce tuition increases was the money set aside for the Tuition Tax Credit. Legislative elimination of the tax credit would result in higher funding to public universities and they would respond by holding back tuition increases. Should the tax credit not be eliminated, low inflation and low appropriations would make it all but certain that no public university would be able to keep tuition increases below the rate of inflation resulting in the money set aside for the credit going to other non-education related state programs.

In this document, the presidents and chancellors made the following pledge: “If the Tuition Tax Credit is repealed in September 2001, allowing the legislature to appropriate these funds to university base appropriations for 2001-2002, we will, subject to governing board approval, reduce tuition at our respective campuses” (ibid). It is noteworthy that at one point in this document reference is made to reducing *increases* while in the document title and in pledge statement at the end the implication is that tuition would be reduced – not just increased less. A second issue is the lack of complete unanimity of all 15 institutions. One institution refused to add its name to this initiative arguing that it had foregone higher tuition increases in the past and could not afford to either reduce tuition or reduce the expected increases and was therefore in no position to make this pledge.

As stated previously, the Tuition Tax Credit was not repealed, appropriations increased by at a rate less than inflation, there was no provision for tuition restraint in the budget bill and tuition increased on average by over ten percent in 2001-02. The TTC has remained in effect to the current day but has remained largely unused for the last three tax years.

The effectiveness of the TTC was hindered because it offered no direct incentive to campuses to restrain tuition increases because it offered no direct way to offset increased costs at the institutional

level. The tax credit offered no real incentive to students either. The financial relief offered by the credit is insubstantial when compared to the total cost of a student's education, especially when percentage caps kept the dollar amount of the credits relatively low for most public university students who qualified. It is doubtful that many students base their decision to attend a university on the basis of a couple of hundred dollars. It's worth noting that the student wouldn't know for sure whether or not they would realize this benefit until after they had enrolled at an institution, since tuition decisions are usually made in the late spring or early summer. It is also unlikely that a student leave one institution and start attending another simply on the chance that they would qualify for the tax credit next year. Would students attending a relatively low tuition institution transfer to a higher tuition institution simply because the more expensive institution had a history of qualifying for the tax credit? Probably not.

Additional problems with the tax credit relate to the needs of students and their families. The tax credit was non-refundable which means that you have to already be paying more in taxes than what the tax credit was worth. The poorer a student or his or her parents, the less they would benefit from the tax credit. Therefore, low income students and their parents, the students who would be the most price sensitive, would be unmotivated by this tax credit. Also, limiting the tax credit to no more than 4 years per student effectively blocked out part-time students who are more likely to be of lower incomes. Finally, it offers relief up to a year after the expense has been incurred instead of when students need it most, when they are actually paying tuition bills.

5.3 Tuition restraint language in appropriations bills

The use of boilerplate tuition restraint language in higher education appropriations bills is probably the most direct of the indirect methods utilized by the legislature to moderate tuition increases.

As was reviewed in section 2.0 regarding the constitutional autonomy of Michigan's state universities, the legislature has attempted to directly impose levels of tuition increase only to have them invalidated by the Michigan Supreme Court. Since the early 1980s, tuition restraint boilerplate in Michigan has taken three different approaches. The first threatens that public universities that increase tuition in the future above a certain rate will have their appropriation reduced either the same year or the following. The second approach provides extra funding for institutions that agree to keep tuition increases below a certain level in the future. The third method is to reward institutions that have kept tuition increases low by providing them additional appropriations after the fact. All of these approaches are somewhat self-fulfilling in that schools that receive higher appropriations can afford to keep tuition low while those who may have to raise tuition to meet demands unique to their campus get less in appropriations spurring additional tuition increases. Historically, Northern Michigan University and Wayne State University are good examples of low tuition, high appropriation institutions.

The legislature has also recognized that increased enrollment puts added pressure on universities to increase tuition. There are several instances where the legislature has provided additional appropriations to growing institutions with the understanding that it was to help cover the costs of increased tuition and thereby reduce the need to increase tuition. These additional dollars did not usually have boilerplate strings attached and will be mentioned below only to account for them in the broader scheme of tuition restraint.

The first instance of legislative tuition restraint boilerplate language during the timeframe of this study occurred in 1980. Section 31 of Public Act 332 of 1980 is entitled the "Tuition Stabilization Fund." It states:

It is the intent of the legislature that beginning with the 1981-82 fiscal year there shall be

established a tuition stabilization fund to offset tuition increases for Michigan resident students attending state colleges and universities. This fund shall be administered by the department of management and budget and all state colleges and universities in Michigan shall be eligible to submit requests for financial reimbursement based upon announced tuition rate increases over the 1980-81 institutional fiscal year for Michigan residents students.

The approach outlined above is dependent on subsequent legislative sessions fulfilling the legislative intent of their predecessors, which in this case was prevented by budget shortfalls. One legislative session cannot legally impose its will on a subsequent legislative session, short of establishing an issue in law. Such laws related to university tuition were routinely struck down by the Michigan Supreme Court as was noted previously. For this reason, all one legislative session can do is express its intent to subsequent sessions and hope that their intent is fulfilled. That hope is dependent on legislative leadership remaining the same (from committee, chamber and partisan perspectives), budgets either growing or remaining stable, and universities responding “reasonably,” and from their perspective, voluntarily to the restrictions. In this instance from 1980-81 it was also dependent upon the Department of Management and Budget to define the parameters for determining whether or not institutions restrained tuition. In this case, the following budget year 1981-82 saw one of the highest real dollar tuition increases of any of the years between 1979-80 and the present, which had been preceded by the largest same-year cut to appropriations for higher education during the 25 years of this study.

In Public Act 139 of 1987 the legislature added funding in sections 46 and 49 to help universities meet the needs of increasing enrollment. This increased funding was not added to the base of the universities that received it. It covered one time expenses related to increased enrollment but by its nature could not be counted on to offset costs in future years. During this same year DCPI increased by approximately 2 percent to almost 4%, while appropriations increased about 1.5% less than the previous

year. Average tuition increased by about 8 percent.

Section 402 of Public Act 325 of 1988 contained a provision granting additional funds to the 10 smaller schools based on enrollment increases. The remaining 5 institutions that did not receive enrollment related funding were given additional appropriations based on their more “graduate intensive” nature. This extra funding for either enrollment or graduate programming was added to the base of the qualifying institutions. Additional non-base funding was provided for “tuition stabilization.” Even with this added funding, the rate of appropriations increase did not keep up with the rate of inflation coming in below the DCPI by almost 2 points. Average tuition increased by 10% that year.

In 1989-90, the legislature again provided additional funding aimed at restraining tuition increases. The “Tuition Stabilization Fund” was one-time money authorized by Section 420 of Public Act 195 of 1989, and was offered after the fact as an extra base appropriations to seven universities “for maintaining low levels of tuition.” Tuition dipped slightly that year and overall appropriations increased as well. Still, appropriations rose at a rate less than the DCPI for the second year in a row.

The following year, 1990-91, Tuition Stabilization funding was again offered but this time it was rolled into the base of the universities’ budgets without boilerplate. For the third year in a row appropriations would be increased at a rate less than that of DCPI. Tuition increased at a notably lower rate than the 3 years prior or the 3 years directly after.

From 1991-92 through 1993-94, tuition increased at a rate at or near ten percent a year. It fell somewhat in 1994-95 and then hovered near the five percent mark for the rest of the decade through the 2000-01 budget year. DCPI and appropriations also varied within the same range with DCPI remaining below 5% for all of these years, with the exception of 2000-01. Appropriations and tuition exhibited a

clearly inverse relationship. These were also the years of the Tuition Tax Credit; the real impact of which was less about actually restricting tuition long-term and more about applying short-term political pressure to the universities. Additionally, this was a period of strong legislative leadership that actively promoted and defended higher education as a legislative priority. Activist legislators, primarily the chair of the Senate appropriations sub-committee on higher education, worked hard to keep higher education appropriations above the rate of inflation, often in the face of aggressively competing special interests. University leadership responded by supporting these activist legislators with statements on tuition restraint even though there were reservations about the long-term ability to restrict tuition at a time when higher education appropriations did not seem to be a high priority for the legislature.

At a House higher education appropriations subcommittee hearing in 1996, three of the highest profile university presidents at the time, James Duderstadt of UM-AA, Peter McPherson of MSU and David Adamany of Wayne State, each testified that tuition restraint was dependent on adequate appropriations from the state. Duderstadt testified “We (universities) are entering in to a good faith partnership in tuition restraint. If you (the legislature) back away from it, the agreement to keep tuition down will be reconsidered” (GNS Michigan Report May 1, 1996). Even though average tuition increases had remained within a point or two of the DCPI during the mid 1990s to 2000, the Engler administration and the legislature agreed upon punitive tuition restraint language for higher education appropriations bills in 1999-2000, 2000-01 and 2002-03.

In 1999-2000 the legislature passed Public Act 93 that contained language restricting tuition increases to not more than 3%. Universities voluntarily supported these provisions in the context of higher than expected appropriations increases of an overall 5.4% in a tight budget year. The executive

director of the Presidents Council said that universities were committed to “as much tuition restraint as possible” and the higher appropriations of the 1999 budget bill would allow universities to comply with the restraint provisions. The chair of the House subcommittee on higher education appropriations said at the time “I would hope the message has been sent and the universities will comply” (GNS Michigan Report June 9, 1999). The boilerplate text for Public Act 93 of 1999 is below:

Sec. 403. (1) It is the intent of the legislature that any public university receiving funds under part 1 of this act that adopts a resident undergraduate tuition and fee increase for the 1999-2000 academic year of 3% or less shall retain in its base for calculation of its appropriation for the fiscal year ending September 30, 2001 an amount equal to 1.5% of its base appropriations for the fiscal year ending September 30, 2000.

(2) It is the further intent of the legislature that any public university receiving funds under part 1 of this act that adopts a resident undergraduate tuition and fee increase for the 1999-2000 academic year of more than 3% shall have its base for calculation of its appropriation for the fiscal year ending September 30, 2001 reduced by an amount equal to 1.5% of its base appropriations for the fiscal year ending September 30, 2000.

(3) An amount equal to the reduction to the base calculations of universities for the fiscal year ending September 30, 2001, as determined under subsection (2), shall be added to the base for calculating the 2000-2001 fiscal year appropriations of those universities adopting a resident undergraduate tuition and fee increase of 3% or less for the 1999-2000 academic year. The funds added to the base for calculating the fiscal year 2000-2001 appropriations of the eligible universities under this subsection shall be allocated on a per-fiscal-year equated student basis to the state universities that have not achieved their per-student floor specified in section 409.

In 2000-2001, the Michigan legislature enacted similar language in Public Act 298 that increased the tuition cap to 4%. In both cases, the limit was lower than the rate of inflation for that year and in both cases the penalty for violating the tuition cap was the loss of 1.5% of total appropriations during the next budget cycle. As discussed above, Governor Engler tied increased funding in the 2000-2001 budget bill for higher education to the repeal of the tuition tax credit. The governor’s position is well summarized by a statement from his budget director when presenting the governor’s proposal to the legislature: “If we give adequate funding in the base and then tie in additional money to keep tuition

down, that's a pretty good incentive" (GNS Michigan Report February 8, 2001).

The tuition restraint proscribed in 1999 and 2000 was stated in terms of "legislative intent" with the 1999 session dependent upon the 2000 session seeing this intent through and the 2000 session dependent on the actions of the 2001 session. In the case of the 1999-2000 budget bill, all universities adhered to the provision although they made it clear in writing that they did so voluntarily as an expression of goodwill.

The same was true for 2000-2001 bill with the exception of Northern Michigan University (NMU) which thought it was in compliance but was deemed to have substantially violated the provision when that institution enacted a requirement that all students purchase laptop computers from the university. This requirement was defined as a mandatory fee that increased the tuition reported by NMU more than 27%. Without the computer fee, NMU's reported tuition would not have exceeded the 4% restriction. During the appropriations process of the 2001-2002 legislative session for the 2002-2003 budget year, the House passed an appropriations bill that punished NMU by subtracting 1.5% from their appropriations. When the Senate subcommittee took up the bill, it passed a version that restored NMU's funding. The bill went to conference committee and was ultimately signed into law by the governor without punishing NMU. Legislative intent was ignored. This led the chair of the House subcommittee on higher education appropriations to declare: "This will open the door" to other universities to violate future tuition restraint provisions without fear (GNS Michigan Report March 14, 2001).

From 1995 to 2001, the average tuition increase for public universities was at or below the rate of inflation four out of six years and only exceeded five percent in 1998-99. Appropriations had increased above the DCPI four out of six years. In 2001-2002 appropriations increased by the lowest amount since

1993-94 when it was close to zero. The public higher education community had assumed a tight budget year and worked hard to ensure that there would be no tuition restraint language in the 2001-2002 budget bill. One president detailing the budget pressures his institution was under as a result of growing enrollment and increased costs stated “The funding dilemma that my university faces is because we sought to meet state policy (for tuition restraint)” with part of his problems stemming from redirecting university resources to help cover the state mandated 25% match for capital outlay projects. Another campus leader stated tuition restraint policies of the state were “a case where the intention was better than the results.” Both of these CEOs represented smaller low tuition campuses and each argued that future tuition restraint should provide both a percent and a dollar cap which would allow lower cost schools more flexibility in increasing tuition (GNS Michigan Report March 7, 2001).

The appropriations bill passed in 2001 did not contain any tuition restraint language. Senate subcommittee on higher education appropriations chair, Joe Schwarz, said at the time: “In a year when dollars are going to be as difficult to come by as dollars are going to be, placing artificial limits on tuition does not make sense,” and “If (tuition increases) start coming in with double-digit increases, then there’s a fracture of trust. The director of the Presidents Council is quoted in the same article as saying: “We’ve seen tuition restraint primarily because of the level of state support” (GNS Michigan Report May 15, 2001).

Average tuition at Michigan public universities increased by 11.2% in 2001-02, causing a great deal of concern among state level politicians. This concern was heightened late in 2002 when the Central Michigan University (CMU) board approved a 28% tuition increase for the 2002-2003 school year. This action by the CMU board was done months earlier than usual, and set a bitter tone for budget

and tuition restraint discussions for the 2002-2003 budget year. Dick Posthumus, the lieutenant governor, who was also at the time a Republican candidate for governor, stated in response to this increase “Michigan needs a system of higher education that not only rewards the universities that act responsibly but also punishes those that don’t.” As part of his campaign for governor, Posthumus proposed a constitutional amendment that would have limited tuition increases to the rate of inflation or five percent, whichever was less (GNS Michigan Report December 17 and December 18, 2001).

A CMU spokesperson in the December 17 article responded to criticism by stating that CMU leadership was worried “if they don’t act now (with the high increase), then they would be facing a different kind of criticism down the road that CMU failed to act and settled for mediocrity” (Ibid). The chair of the House subcommittee on higher education appropriations commented that a constitutional amendment “may be the direction we have to move and I look forward to working with the lieutenant governor to put that in place” (Ibid). The chair’s statement is especially remarkable since it came from a person holding one of the key slots that in the past had been held by champions of higher education. She was in effect saying that the legislature could not control public universities and was willing to abrogate her authority and role as a policy maker to some sort of constitutional process or limit that would directly control tuition. It is doubly interesting since the person who made this statement not only chaired one of the two most important appropriations committees for higher education but was also the state representative who represented the district within which CMU is located. Eventually CMU was forced to nullify the 28% increase and accept a far lower rate in order to meet a unique tuition restraint proposal that kept tuition relatively low during the worst budget pressure that the state had faced in 20 years (GNS Michigan Report April 29, 2002).

CMU's action sent a warning signal to the governor and legislature that resulted in a decision on higher education appropriations that was made extremely early in the process. The agreement was included in the text of the 2002 appropriations bill that was to become Public Act 144 of 2002. Public Act 144 of 2002 included the following tuition restraint language:

Sec. 436. (1) It is the intent of the legislature to recognize and maintain the quality of Michigan's colleges and universities by allowing the higher education appropriations for the 2002-2003 fiscal year to remain at the same level as the appropriations for fiscal year 2001-2002, with no reductions. It is also the intent of the legislature to recognize the need for tuition restraint on the part of Michigan's public universities, in order to maintain access and affordability at Michigan's colleges and universities for students and parents. It is further the intent of the legislature to reduce appropriations for any college or university that does not exercise tuition restraint for the 2002-2003 academic year, as outlined in subsection (2).

(2) The appropriation for any university in part 1 of this act shall not be reduced if that university adopts a tuition and fee rate increase for resident undergraduate students that is 8.5% or less over the prior year, or a total increase of \$425.00 or less over the prior year, whichever is greater, and if a university reports to the state budget director and the appropriations committees of the house and senate any cost increases in excess of the increase over the prior year in the Detroit consumer price index, for utilities, retirement, health care, or technology.

(3) It is the intent of the legislature that the presidents and chancellors of Michigan's 15 public universities voluntarily agree to the conditions outlined in subsection (2), and that a letter signed by the presidents and chancellors confirming this agreement would be transmitted to the legislature by February 28, 2002.

(4) If a university does not exercise the tuition restraint as outlined in subsections (2) and (3) above, the legislature authorizes the state budget director to withhold funds appropriated for that university by an amount equal to the amount in excess of the desired restraint and to notify the appropriations committees of the house and senate. It is the intent of the legislature to redistribute these funds, based on each university's percentage share of the fiscal year 2001-2002 base appropriations, to those universities that honor the tuition restraint commitment.

Each public university sent the director of the Department of Management and Budget (DMB) a letter stating that they voluntarily agreed to abide by the above language and would not increase their tuition by more than 8.5% or \$425, whichever was greater. However, in subsequent months, three

institutions found themselves in violation of the agreement. In two of these cases the institutions involved had enacted fees that they claimed did not have to be reported as part of the tuition and fees charged to the majority of their students. The legislative fiscal analysts and the director of DMB disagreed, claiming that the added fees applied to enough students that they should be included in the total tuition reported. In the third case, the institution delayed for one semester the implementation of a small portion of their tuition increase that had been approved by their board. When the added amount appeared on the second semester tuition report to the state, the state claimed that the institution had violated the \$425 limit by that extra amount, or by \$15. The institution claimed that the \$425 limit should be applied to what its board had approved, which would have accounted for the \$15. In all three cases the institutions failed to make their case that the violation was unintentional, and each faced having their appropriations reduced with the sum of the three reductions spread out to the other complying campuses. Fortunately or not for these institutions, Governor Granholm was forced to implement mid-year executive order cuts to all state agencies including higher education. This executive order cut nullified the agreement on tuition restraint. No institutions increased tuition mid-year to help make up for the 3.75% cut implemented by executive order (GNS Michigan Report December 5, 2002 and March 5, 2003).

With the budget situation worsening for the FY 2003-2004 budget year, the state universities faced the possibility of a 15% across-the-board cut in addition to what had already been cut by the previous year's executive order. In the end, they were happy to accept a 6.25% cut in appropriations with only vague language about tuition restraint. Still, this reduction in higher education funding was the largest both in dollar and percentage terms of any other portion of the state budget (GNS Michigan

Report March 12, 2003). Governor Jennifer Granholm submitted her 2003-2004 budget-cutting proposal with a statement that universities should refrain from high tuition increases and should tighten their belts. The average tuition increase at Michigan public universities for 2003-2004 was just over 10%. The institutions with the lowest percentage increases were mostly those who were either given added funding or were subject to lower reductions with the justification that they had experienced significant enrollment growth. In one case, a university that was given a fairly significant increase in funding lowered its planned tuition increase from 11.7% to 5.7% saying that it was passing two thirds of the added appropriations back to students in the form of lower tuition. Through a spokesperson, the governor responded to the higher-than-expected rate of tuition increases by expressing her disappointment that tuition had been increased at all (GNS Michigan Report July 18, 2003). When she signed the bill, the governor indicated that the cuts would encourage public universities to restructure operations and programs to run more efficiently (GNS Michigan Report August 6, 2003).

5.4 Average yearly increases: tuition and appropriations versus DCPI

Table 1 below shows the yearly increases in tuition at public universities, state appropriations, and the Detroit CPI over a 25 year period from FY 1979-80 to FY 2003-04. It does not include the mid-year 5% across-the-board cut to Michigan public higher education implemented by executive order for FY 2003-04 in December 2003. The time frame of this analysis was dictated by the appropriations and tuition data provided by the Senate Fiscal Agency. Over the 25 years displayed in Table 1, tuition at Michigan public universities increased at an annual average rate of approximately 7.9%. Appropriations for higher education, meanwhile, increased at a lower average yearly rate than Detroit CPI, 4.1% and 4.6%, respectively.

Table 1. Average annual change in public university tuition, state funding and inflation

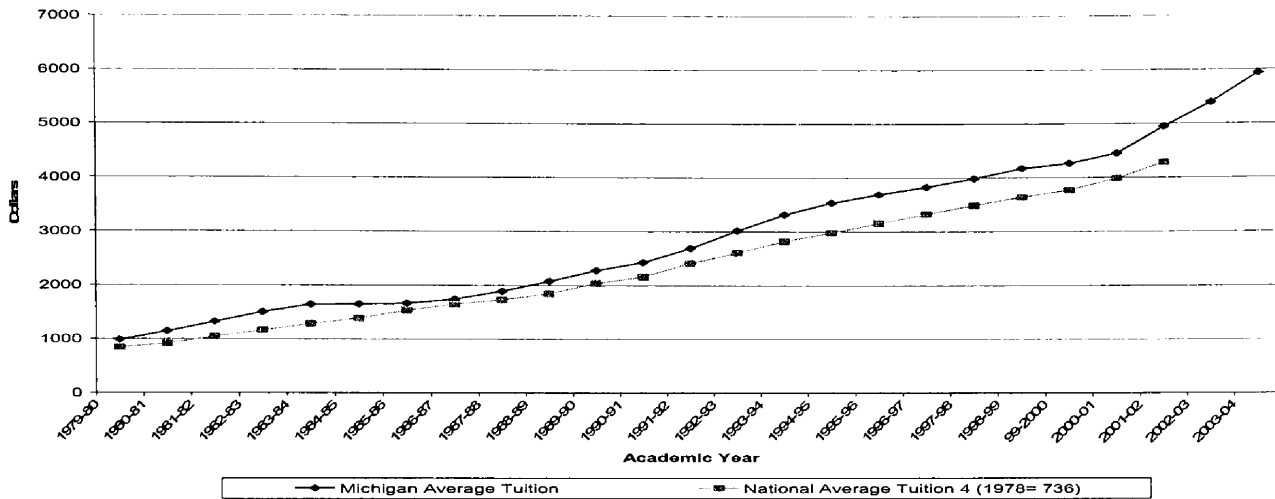
Fiscal Year	%Change Average Mich Tuition	% Change State Appropriations for all 15	% Change In Detroit CPI
FY 1979-80	9.7%	7.9%	8.3%
FY 1980-81	16	-7.6	11.7
FY 1981-82	15.7	5.9	7.9
FY 1982-83	13.7	6.9	3.8
FY 1983-84	9.3	8.9	2.8
FY 1984-85	0.3	11.4	3.4
FY 1985-86	1	14.1	3.6
FY 1986-87	4.6	7.4	1.5
FY 1987-88	8.4	5.7	3.4
FY 1988-89	10	2.7	4.4
FY 1989-90	9.6	4.9	6.2
FY 1990-91	6.7	4.3	6.3
FY 1991-92	9.5	4	4.5
FY 1992-93	10.7	0.9	2.8
FY 1993-94	9.8	0.1	3.7
FY 1994-95	6.7	4.9	4.4
FY 1995-96	4.3	2.8	4.6
FY 1996-97	3.7	5.5	3.9
FY 1997-98	4.2	4.7	3.8
FY 1998-99	5.4	2.8	3.5
FY 99-2000	2.9	5.4	4.1
FY 2000-01	4.4	6.1	5.9
FY 2001-02	11.2	1.5	4.6
FY 2002-03	8.9	-3.1	4.5
FY 2003-04	10.1	-6.5	2
Yearly Average	7.872%	4.064%	4.624%

5.5 National trends compared to Michigan

According to data from the National Center for Education Statistics (NCES), Michigan and national tuition trends for four-year public universities have increased at similar rates for the last twenty-five years. As indicated by Figure 6, tuition at Michigan public universities is higher than the national

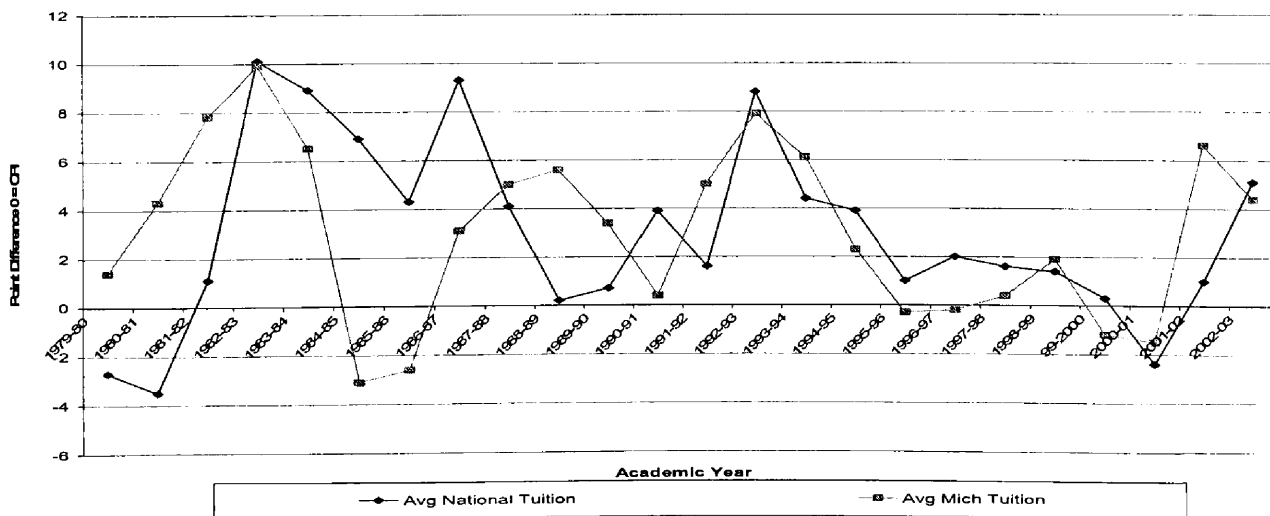
average during this period.

Figure 6. Average Tuition at 4 year public universities: Michigan versus national



A visual examination of year-to-year tuition increases in Figure 7 below indicates a significant degree of correlation between tuition increases on the national and state levels. In some years there is a difference between the two, but they generally move together.

Figure 7. Comparison of public university tuition increases: Michigan versus national



In 1980-82 Michigan tuition increases exceeded those nationally by approximately 8 percentage points. This was a period of economic downturn that hit Michigan especially hard, resulting in significant cuts to higher education funding. Conversely, in 1984-86 Michigan was approximately 8 percentage points below national averages as result of significant appropriations increases and strong-arm tactics of Governor Blanchard to keep tuition increases low during those two years. Both national and state tuition increases moderated during the economically vibrant 1990s with national trends rising above Michigan for most of that decade, especially in 1991-92 and 1993-96 when national tuition rose much faster than the Michigan average. The moderation in rate increases at both state and national levels ended with the collapse of the 1990s economic boom causing national and state average tuition to increase steeply. Over the 25-year time frame of this analysis, Michigan was below the national average tuition increase about half of the time.

6.0 Conclusion

Based on the three examples explained above of state government attempting to control tuition increases at Michigan's public universities, the effectiveness of these measures appears to be somewhat mixed. The long-term ability of governors to influence appointed university boards is not backed up by trends in tuition increases, with the exception of the later years of the Engler administration when tuition and appropriations increased in a clearly inverse manner and in an especially tight range of two or three percentage points. While this restraint might be attributed to Engler's leadership as governor, it is more likely to be the result of a combination of the three tuition restraint methods examined here - gubernatorial influence, the Tuition Tax Credit, and legislative activism, all in the context of higher than

usual state revenues as a result of the mid-1990s stock market boom.

The Tuition Tax Credit had little overall impact on tuition trends, however it did influence some institutions to restrain tuition at least temporarily. The fact that Governor Engler actively sought its repeal is indicative of its failure to restrain tuition. Likewise, the Tuition Tax Credit's inability to influence real change in tuition policy is implied by its complete exclusion from the Final Report and Recommendations issued by the Michigan Commission of Financing Postsecondary Education in February of 2000. The commission was chaired by Engler's Lt. Governor Dick Posthumus and collected testimony from across the state regarding the cost of higher education in Michigan. (Michigan Commission on Financing Postsecondary Education, February, 2000).

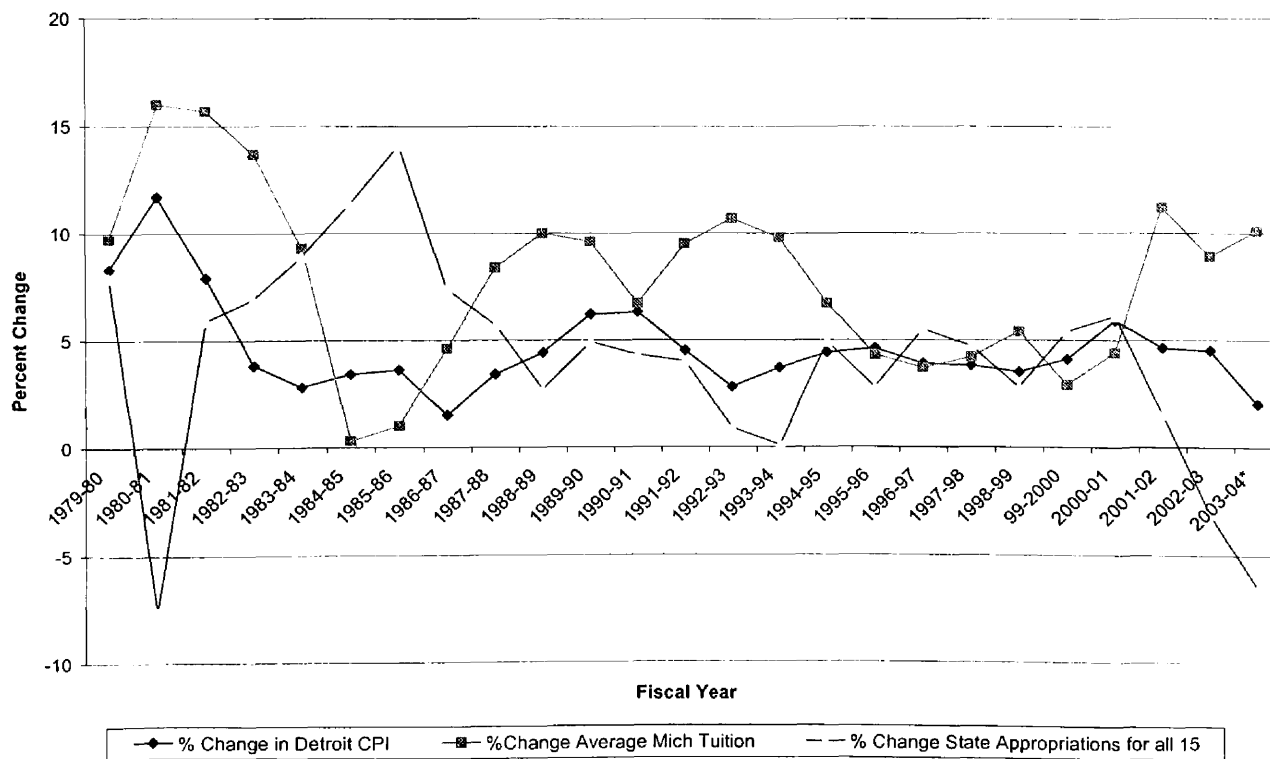
Legislative activism takes two forms: 1) working to restrain tuition by appropriating more funding for higher education and 2) attempting to indirectly control tuition increases through mostly restrictive and punitive boilerplate provisions in budget bills. Over the 25-year period of this study there were three instances when both tuition and appropriations increases were above the rate of inflation in the same year: 1982-83, 1983-84 and 1987-88. For the remaining years, the rate of tuition increase was above the historic annual average of 7.9% only in those years when the rate of increase in appropriations fell below the rate of inflation for that year. When appropriations fell below inflation, tuition increased above the annual average of 7.9%.

From 1994-95 through 2000-01, the rate of tuition increase was below the rate of inflation. Twice during this time appropriations increased at a rate less than inflation. Perhaps more telling is that four times during this period average tuition increased at a rate less than that of inflation: 1995-96, 1996-97, 1999-2000, 2000-01. In three of these years, increases in appropriations were higher than inflation

for that year. Even during this time of relative restraint and stability in tuition increases, legislators still called for more tuition restraint including initial moves to amend the constitution in order to circumvent university constitutional autonomy.

Throughout the years of this study, only one factor has restrained rising tuition and that is state appropriations. The impact of inflation and appropriations on tuition increases is illustrated below in Figure 8. Gubernatorial or legislative activism aimed at punishing tuition increases were short-lived and often counterproductive. Similar efforts aimed at increasing appropriations almost always led to lower than average increases in the rate of tuition.

Figure 8. Percent change in inflation, public university tuition, and state funding



6.1 Considering the future of public higher education in Michigan

As public universities battle to reduce the potential for additional cuts to higher education in FY 2003-2004, it is worthwhile to look at the past in order to gain perspective for the future. Table 2 below shows yearly percentage increases in Detroit CPI, tuition and higher education appropriations from FY 1989-90 to FY 2003-04 (without Executive Order cuts). The average annual increase over a fifteen year period in these areas was inflation 4.32%, tuition 7.21%, and appropriations 2.5%.

Table 2. Annual increases in inflation, public university tuition and state funding

15 year average increases			
	DCPI	Tuition	Approps
FY 1989-90	6.2%	9.6%	4.9%
FY 1990-91	6.3	6.7	4.3
FY 1991-92	4.5	9.5	4
FY 1992-93	2.8	10.7	0.9
FY 1993-94	3.7	9.8	0.1
FY 1994-95	4.4	6.7	4.9
FY 1995-96	4.6	4.3	2.8
FY 1996-97	3.9	3.7	5.5
FY 1997-98	3.8	4.2	4.7
FY 1998-99	3.5	5.4	2.8
FY 99-2000	4.1	2.9	5.4
FY 2000-01	5.9	4.4	6.1
FY 2001-02	4.6	11.2	1.5
FY 2002-03	4.5	8.9	-3.1
FY 2003-04	2	10.1	-6.5
Yearly Average	4.32%	7.21%	2.5%

Table 3 below projects these annual averages ten years to FY 2013-14 showing the potential impact such increases would have, if they were continued, on the funding ratio between tuition and appropriations. Assume a starting ratio of 60% tuition to 40% appropriations in FY2003-04. In the first projected year, the funding ratio shifts to 61% tuition and 39% appropriations. By the end of the ten year period, the funding ratio shifts even more toward tuition at 67% to appropriation's 33%.

Table 3. Projected annual increases in inflation, public university tuition and state funding

Projected	DCPI	Tuition	Approps	Ratio of T/A
FY2004-05	4.32%	67.21%	42.55%	61%/39%
FY2005-06	8.64	74.42	45.1	
FY2006-07	12.96	81.63	47.65	
FY2007-08	17.28	88.84	50.2	
FY2008-09	21.6	96.05	52.75	
FY2009-10	25.92	103.26	55.3	
FY2010-11	30.24	110.47	57.85	
FY2011-12	34.56	117.68	60.4	
FY2012-13	38.88	124.89	62.95	
FY2013-14	43.2%	132.1%	65.5%	67%/33%

Using twenty-five year averages mitigates somewhat the shift in ratio to 63% tuition and 37% appropriations.

Simply carrying past yearly increases forward helps to put the issue of rising tuition in historical perspective but doesn't address three subtle underlying trends that may ensure the state's share of higher education funding will continue to decline. These trends are: increasing institutional costs attributed to Baumol's Cost Disease; decreasing revenue at the state government level as a result of lower taxes and below normal economic performance due to broader economic shifts; and the ratio shift in cost burden away from appropriations and toward tuition.

6.1a Baumol's Cost Disease: Baumol's Cost Disease (BCD) is an economic theory defined by William Baumol of New York University. BCD occurs when a certain activity either cannot be done more efficiently or increases in efficiency far slower than other activities. To demonstrate this, Baumol used the example of a Mozart quintet that required the effort of five musicians in the year it was written and two hundred years later still requires the effort of five musicians. In terms of economic efficiency, there has been no productivity change in playing the Mozart quintet over the last two hundred years.

Meanwhile, the cost of paying the musicians has increased many times, as the cost of living has increased. Researchers point to the law, social work, the arts, insurance, healthcare, entertainment and education as economic activities where productivity either cannot be increased or can only increase very slowly or at the expense of quality. Service industries are very susceptible to BCD and will increase in relative cost as manufacturing industries will be far better at increasing productivity and are able to reduce costs without sacrificing quality (Kenneth Shaw and Dan Black: Why College Costs So Much, The New York Times on the Web; April 8, 2001).

One way for service industries to counteract BCD is to reduce costs by accepting reduced quality. If educational productivity cannot be increased by either students learning or instructors teaching more efficiently, then the only answer is to pack more students into each classroom or hire inferior but less expensive instructors (James Surowiecki, The New Yorker; July 07, 2003). In education, technology can make some student services such as record keeping or financial aid distribution more efficient. However, when applied to the learning environment, technology can actually increase costs. Technology must be updated on a regular basis in order to stay current. Such updates increase expenses, but do not yield corresponding increases in productivity, therefore increasing the cost of doing business. Instructors must learn how to use new technologies and find ways to apply them to learning without decreasing the quality that students and potential employers demand. Support services for the new technologies have to be created or expanded to provide the assistance needed to operate and maintain the technology, which has the effect of adding a new inherently inefficient service (system maintenance and technical support) to help an already inefficient service (teaching) conduct its activities in a manner that is even more inefficient from a cost perspective than it was before. Employers expect that the recent university

graduates they hire will be proficient in the latest technological advances in their respective industries. While the employers benefit from the cost savings and productivity increases of these technological advances, universities must teach students using these technologies but instead of reaping increased productivity and profits, the institutions simply reap increased costs.

Stanley Fish, a university administrator, noted in an article in the New York Times that while politicians demand that universities operate more like businesses, these same politicians and the students and families that they claim they are representing would “scream bloody murder” if universities acted on such demands. The result would be universities closing unprofitable programs (regardless of societal need), relaxing quality control, limiting enrollment, reducing student services, hiring the “pedagogical equivalent of migrant workers,” and inventing “fees for everything from registration to breathing” (Stanley Fish, The New York Times, on-line edition: September 18, 2003).

6.1b Falling State Revenues: While Baumol’s Cost Disease works to increase the cost of higher education relative to other expenses of the economy in general, state budget revenues are predicted to slide downward for the foreseeable future. “College Affordability in Jeopardy - The Rising Price of Higher Education” (National Center for Public Policy and Higher Education (NCPPE), National Crosstalk: Winter 2003) details state-by-state the nationwide reduction in state funding of higher education as a result of the current weak economy. The report notes that state governments often resort to cutting higher education as a means of achieving balanced budgets. Higher education is viewed as a prime target for budget cuts during hard times as institutions can supposedly respond by cutting costs and increasing tuition. The president of the NCPPE, Patrick Callan, lists three reasons why the trend toward state disinvestments in public higher education is “shortsighted and disastrous” in his view:

1) enrollment in higher education is predicted to increase greatly over the remainder of this decade and even in good times states would have been hard-pressed to meet this demand; 2) most of these new students will come from poor or moderate income households where a university degree means social as well as economic advancement and opportunity and; 3) without “education and training beyond high school” these students will not be “able to find employment that supports a middle class life” and communities and states will suffer as a result (Ibid).

In another NCPPHE document entitled “State Shortfalls Projected Throughout the Decade” (February 2003), author Dennis Jones states that during boom economic cycles states engage in two activities to the detriment of higher education. First, they create and fund new programs that will compete with higher education for state funding in the future. Second, they reduce taxes to the point where they will not be able to sustain state operations during bad times. This is in addition to states funding higher education at a disproportionately high level during good times and cutting it a disproportionately deep level during bad times (Ibid). Jones predicts that not only will higher education’s share of the state budget continue to shrink from competition with other state priorities; the state budget itself will be smaller. He lays most of the blame for higher education losing budget share to the rising competing costs of Medicaid, along with the inability of state lawmakers to increase taxes after spending most of the 1990 boom years cutting them (Ibid).

Moving from the national to the Michigan level, the Citizens Research Council published an analysis of Michigan’s current and mid-term budget situation. The report notes that, in addition to budget cuts, the state used several accounting changes and revenue enhancements that offered one-time short-term relief from the 2002-03 budget deficits. With the 2003-04 budget year projected to be almost

\$1 billion in deficit, the state will have to dig even deeper to end the year in balance. Falling tax revenues as a result of tax cuts, loss of Internet related sales tax, the rising cost of healthcare for the poor (Medicaid), state employees and retirees and state prisoners, new state policies that will increase prison population, public school cost increases, and Michigan's per capita income increasing at a sluggish rate thus reducing income tax revenue will combine to create long term budget shortfalls and retrenchment for the state (Citizen Research Council State Budget Notes – A Recap of the FY04 Budget and a Look Ahead to FY05 and Beyond: October 2002). The CRC report concludes:

“Michigan will likely experience structural pressures in its budget for many years. A revenue base that grows less rapidly than major indices of the economy coupled with spending responsibilities so heavily weighted in areas growing at rates faster than the economy, such as health care and corrections, is a recipe for continuing budget problems. Areas in which the state has some discretion, such as higher education and local revenue sharing, offer a way for the state to relieve some of the pressures by shifting more of the financial responsibility to the purchasers of higher education – students and parents – and to local taxpayers through cuts in services or higher taxes. Without structural changes in the revenue system, the inescapable alternative involves continued significant reductions in state-funded programs” (Ibid).

In summary, the trends for state government spending nationwide and in Michigan is downward. This trend will put upward pressure on tuition and cause an acceleration of the shift in cost burden ratio between state appropriations and tuition. How this will play out politically is the subject of the last trend that, working with the first two trends, will ensure continued increased reliance on tuition.

6.1c Shifting Cost Ratio Effect: Over the last four decades, declining state appropriations and increasing tuition has led to a gradual shift in dependence of Michigan public universities from state appropriations toward tuition and fee revenue. In this study, I have called this the shifting cost ratio effect. The significance of this effect can be seen by comparing two budget years and the share of the total public university revenue borne by state appropriations and by student tuition. In 1972-73,

according to the Presidents Council State Universities of Michigan, appropriations constituted 75%, and tuition and fees comprised the remaining 25% of university operating expenses, a 3:1 ratio. By 2002-03, that ratio changed to 46% appropriations to 54% tuition and fees, less than a 1:1 ratio. Additional budget cuts implemented mid-year 2003-04 further shift the ratio toward tuition and away from appropriations.

While the shifting cost ratio effect is created by the change in the balance between state funding and tuition revenue, the effect itself is a political phenomenon that influences the overall discussion of tuition and appropriations. As the share of state appropriations shrinks, it takes a correspondingly higher percentage increase of state funding to impact tuition decisions by campus administrators. For example, as stated above, in 1972-73 state funding accounted for 75% of the cost of educating the average public university student in the state. That meant for every one dollar of tuition funding, the state contributed three dollars. That 3:1 ratio gave the state a great deal of leverage over institutional tuition policy. As that ratio decreases, the state's ability to influence increases in tuition through appropriations is reduced proportionally.

As a simple example of this, assume that it costs \$100 to provide a year's worth of education to a student on a particular campus. The university finds that it needs an additional \$7.50 to fund the education of that student for the next year. Using the funding ratios of 75% state and 25% tuition in 1972-73, there are three alternatives; the university could raise tuition by \$7.50 resulting in a 30% increase in tuition, the state could raise the 75% share of appropriations by \$7.50 resulting in a 10% increase in appropriations, or there could be some combination of the two. Usually, the third option is the most likely. Assume that the \$7.50 was split evenly between the two in the form of a \$3.75 increase

in tuition and a like dollar increase in appropriations. The result would be a 5% increase in appropriations and a 15% increase in tuition. Table 4 below details the results in terms of percentages required to generate the revenue as described in this example.

Table 4. Year 1972-73

Source	\$ Start	<u>\$7.50 increase split 50/50</u>		<u>100% of \$7.50 increase</u>	
		(\$3.75)	%+	(+ \$7.50)	%+
State \$*	75.00	78.75	5%	82.50	10%
Tuition \$*	25.00	28.75	15%	32.50	30%

*Reflects share of funding based on Presidents Council calculations.

In 1972/73 the funding ratio between appropriations and tuition was 75% to 25%. The \$7.50 overall increase would have meant a 10% increase in state funding had the state covered the entire cost. Likewise, had the \$7.50 increase been covered entirely by tuition, it would have resulted in a 30% tuition increase. If the cost would have been split evenly between the two, there would have been a 5% increase in state appropriations and a 15% increase in tuition. One percentage increase in state appropriations equaled three percentage points of increased tuition.

Next consider moving forward in time to see how this calculation plays out over the course of thirty years. The Table 5 below details the same scenario as above, i.e., a \$7.50 total increase in cost, but with a new cost ratio of 46% appropriations and 54% tuition.

Figure 5. Year 2002-03

Source	\$ Start	<u>\$7.50 increase split 50/50</u>		<u>100% of \$7.50 increase</u>	
		(\$3.75)	%+	(+ \$7.50)	%+
State \$*	46.00	49.75	8.2%	53.50	16.3%
Tuition \$*	54.00	57.75	6.9%	61.50	13.9%

*Reflects share of funding based on Presidents Council calculations.

In the second year where the cost ratio has shifted to 46% appropriations and 54% tuition, we find the percentage increases for appropriations has increased while the percentage increase for tuition has been reduced. The state has far less leverage over tuition for each percent of increase in appropriations.

This example points out two main issues that are evident in the politics surrounding tuition

increases: 1) assuming the continued increase in the dependence on tuition to fund a student's university education, the level of percentage increases in tuition will systematically decrease over time; 2) again assuming appropriations will continue to decline in its share of the cost of funding higher education, proportionally larger percentage increases in appropriation will be required to provide tuition relief for students. In the first case, this will offer no easing of costs for students as the out-of-pocket increases will be just as high; only the percentage increase based on the total will be lower. In the second case, this trend will make it even harder for legislators to provide meaningful relief for students as it would be politically difficult to justify what would very likely be the highest percentage increases in the history of state funding for higher education – regardless of the actual dollars involved.

Taken out of the context of their relative impact on the aggregate university budget, modest percentage increases in public higher education appropriations will be viewed as massive funding increases and with corresponding expectations by state leaders for significant tuition restraint on the part of state universities. An example of this is the 1999-2000 higher education budget that contained a tuition restraint cap of 3% with penalties for institutions that went above the cap. The same bill also increased state funding of public universities by 5.4% and was heralded by headlines such as “Universities win big” (GNS Michigan Report June 9, 1999) or “Awash in money, universities target priorities” (GNS Michigan Report June 15, 1999). In 1999-2000, public universities kept their average tuition increase to 2.9%. Assuming a 50/50 split in cost ratio between state funding and tuition revenue, university aggregate revenue would have increased by 4.1%. Unfortunately, inflation was also 4.1% for the same year. In a year when public universities were said to have had great appropriations success, in the aggregate, they ended up barely keeping even with inflation.

A logical outcome of this percentage influenced trend would be for state funding to continue to shrink based on the political difficulties of justifying percentage increases in higher education appropriations that would be relatively higher than increases in funding for other state priorities. As costs rise faster than the state's ability or willingness to pay its share, more of the burden will fall on the students.

As noted at the beginning of this analysis, projecting yearly averages from the last 15 years outward to 2014, the ratio between appropriations and tuition undergoes a complete reversal. While in the early 1980s the state paid two dollars for every one dollar of tuition, by 2014, the state will pay one dollar for every two dollars of tuition. With each passing year, the shifting cost ratio effect will have even more impact on the higher education budget process.

6.1d The political ramifications: The political ramifications of rising costs, decreasing state revenue and the shifting cost ratio between tuition and appropriations cannot be underestimated. University costs will probably continue to rise at a rate in excess of inflation. As the ratio of appropriations shrinks relative to tuition, it will take ever-higher percentage increases in appropriations to mitigate tuition increases to cover these rising costs. Should the legislature attempt to address these costs by increasing appropriations, it will appear to the public and to competing special interests that higher education is getting a disproportionate share of state funding at a point in time when budgets are tight if not shrinking.

Percentage increases will be compared and will be used as both the measure of success and the measure of fairness in the competition for and distribution of state funds. A 3% increase for higher education may seem high if compared to a 1.5% increase in corrections, but the overall impact on

addressing the cost of higher education will be far less than an actual 3% of new funding since state dollars will make up such a small portion of the total. Meanwhile, the 1.5% to corrections will mean an actual 1.5% extra in resources targeted at the rising costs of corrections since the state share of this cost is almost 100%.

The end result of this percentage-driven political dynamic, the shifting cost ratio effect, will be even less state funding for public higher education and an ever-shrinking ratio of state funding vis-à-vis tuition. The shifting cost ratio effect will further reduce legislative ability to leverage appropriations against tuition resulting in further decreases in appropriations. Legislators may take out their frustration at their inability to influence tuition by attempting to play an even more activist role in restraining tuition increases through punitive means. Reducing appropriations as a way to punish “excessive” tuition increases will either result in poorer educational quality, less access to higher education or even higher tuition for those institutions willing to bear the ire of legislators. Punitive appropriations measures will work to accelerate the shifting cost ratio effect and legislators will be trapped in a self-fulfilling and self-defeating vicious cycle.

6.2 Two potential strategies for public universities in Michigan

Assuming a continuing trend away from state support and toward tuition in the funding of public higher education in Michigan continues, universities might attempt two strategies either simultaneously or separately. The first strategy would be to mimic what the Miami University of Ohio (MUO) recently did when it raised tuition for all students to the non-resident tuition rate which was twice that of the resident rate. It then offered two scholarships to Ohio residents that together would reduce costs to near or below the old in-state rate. The Ohio Resident scholarship would be “guaranteed to equal or exceed

the state-funded appropriation per student” while the Ohio Leader scholarship would “vary according to financial need, extraordinary ability, or intent to major in subjects key to the state’s economic development” (MUO web site on tuition plan). By restructuring their tuition in this manner, MUO puts the onus on the legislature to increase the Ohio Resident scholarship amount by increasing appropriations to MUO. Students would have a clear idea of what the total cost of their education is and what portion is covered by financial aid, tuition and appropriations. This strategy is basically what the private universities and colleges have always done in structuring their tuition and presenting it to their students.

MUO president James Garland sees this new approach to tuition benefiting his university in three ways: first, MUO will be more affordable to middle and lower income students; second MUO will be better able to attract leading students from across the country; and third the tuition plan “will raise the perceived value of a Miami diploma” (Miamian Summer-Fall 2003 page 9). A fourth benefit is that tuition payers, be they students or their parents, will be able to easily see how much of the total cost of the education they are paying and how much the state is paying.

Michigan State University will pave the way toward using this approach with the adoption of the Tuition Transparency Model which will emulate the Miami of Ohio approach without changing the actual tuition rate reported to the state. The Presidents Council will discuss the viability of having all Michigan Public universities use this method to clearly define the total cost of educating a student, how that cost is covered and by whom.

The second tactic that public universities might pursue is to seek a dedicated source of revenue that would take the higher education budget out of the state’s general fund. By tying their funding to a

specific tax, universities would have an incentive to work toward maximizing revenue from that source. For example, if universities were funded from the state's business tax, which is dependent on profits, universities would be wise to work closely with the business sector to speed discovery of new technologies through research or educational programs graduating top-notch students. As this source of funding grew, excess revenue could be set aside for lean economic years or could be used to actually reduce tuition and shift the cost burden back towards the state.

6.3 Issues deserving additional examination

Topics that deserve further examination include judging the same three methods of tuition restraint on a disaggregated institution-by-institution basis, something not possible at this time due to problems with the official state database. This approach would give a much more direct analysis of the impact of appropriations on tuition decisions at the institution level. Using average figures clouds the frequent special funding offered to specific institutions. Another issue worthy of further examination is to evaluate whether the priority given to higher education appropriations has changed over the last 25 years compared to other portions of the state budget.

In the early 1980s, Michigan created the Michigan Educational Trust (MET), a state program designed to allow parents a way to invest for the children's university education while sheltering their investment from most taxes and guaranteeing that their future tuition expenses would be fully covered at any Michigan public university. The MET was created to help participating parents save enough money for their child's university education. The MET was thought to be an indirect way to influence pricing by public universities primarily through public opinion. It is doubtful that the existence of this program has influenced tuition decisions by public universities, but it would be interesting to see if it has influenced

appropriations by legislators. The only way to determine this would be to interview key legislators, a task beyond the scope of this study.

Finally, the issue of how percentage increases impact the political process, and are in turn impacted by the shifting ratio of burden between appropriations and tuition, is one of the most interesting areas uncovered by this analysis. I fear that, except for general economic conditions, this subtle issue will be the biggest long-term threat to affordable public higher education in Michigan.

The issue of how percent increases coupled with the shifting cost ratio effect influence appropriations politics could be examined by tracking the ratio of support between state and student dollars, using national data, comparing those national trends to Michigan and then looking at the differing percentage rates of increase versus dollar amounts. The way the shifting ratio effect impacts the politics of higher education appropriations could be analyzed by tracking higher education percentage increases and dollar increases versus other state budget items such as corrections which are entirely state funded. It is likely that over time higher education will receive less and less funding in real dollar terms from the state as the percentage increases needed to maintain pace with the rising cost of education would be significantly higher than other state budget items. Proposing and passing higher education budgets that appear, in percentage terms, significantly higher than other state funded programs would be a politically untenable situation for most governors and legislators. State politicians would be seen as giving higher education too much of the state budget.

A long term effect will be that state funding will comprise an increasingly smaller share of the cost of educating a public university student and students will shoulder more and more of the burden themselves. This outcome will exacerbate the shifting ratio effect in a vicious downward spiral. In the

future, tuition increases based on a larger dollar share of the total cost will appear lower from a percentage perspective but still be as financially painful to students as higher percentage increases on smaller total dollar amounts are today. Conversely, higher education appropriations will be more and more difficult to increase, since it will take much higher percentage increases to keep up with inflation, let alone begin to shift the cost burden away from the student and back to the general public through the state.

Another underappreciated issue impacting tuition is the reduction of state support for university building construction and operation. Prior to the late 1980s, the State of Michigan provided public universities with an appropriation to fund academic-related capital building projects on their campuses. The state also provided building operating or “opening” funds in the base general fund appropriation of each institution that constructed new state-funded building. The first step away from state funding of the construction and operation of academic-related buildings was when the state began issuing bonds for the construction funding instead of providing a direct appropriation. The state began borrowing money to construct university buildings instead of paying cash. While this may have freed up short-term cash, it left the state with ongoing mortgage payments that tied up dollars long-term. The net effect on universities may be negligible but money spent on servicing debt could have been spent to keep tuition more affordable.

The second step away from total state funding of building construction and maintenance was the decision by the state to no longer fund building opening and operating expenses. This decision shifted a significant long-term cost burden to the universities. Those institutions with large alumni organizations and financial endowments were better able to absorb these costs. However, even in the case of

institutions with alternate sources of funding, shifting those funds to building operations meant less funding for academic endowments that might have covered the cost of academic endeavors such as faculty or research.

The third reduction in the state support of public university capital projects was the most dramatic: the requirement by the state that universities provide a 25% match for all state capital outlay funding. This meant that for every \$10 million of a project's cost, the institution would have to come up with \$2.5 million before one dollar of state money would be released for the project. Universities usually use new buildings as levers to encourage giving by alumni and large donors. In the past, this funding went to help support the academic functions that would be housed in the new building or would pay for amenities or extras that the state might not have had an interest in funding but were still of importance to the institution. With the match requirement, institutions had the option of either issuing bonds or redirecting donations from other priorities to cover the match. In the first case, bonds issued by universities are typically covered by tuition dollars, meaning that tuition would have to be increased in order to service the new bond obligation. In the second case, shifting donor funding away from enhancing academic and research endeavors and toward building projects means that those academic endeavors would either be unfunded, or would be funded by increased donor support (again that might be shifted from elsewhere) or by increasing tuition.

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