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William Zumeta ^a

^a University of Washington, Seattle, WA, USA

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State Policies and Private Higher Education in the USA: Understanding the Variation in Comparative Perspective

WILLIAM ZUMETA

University of Washington, Seattle, WA, USA

ABSTRACT *Private higher education has a long, proud history in the USA that is of considerable interest globally. As the United States is a federal state where higher education is a state responsibility, it is of interest to examine public policies toward private higher education across the 50 states (which vary widely) comparatively, both for understanding (policy science) and for the sake of illuminating policy choices (policy analysis). This article lays out the relevant state policies, i.e. aid accessible to private students, direct subventions to institutions, involvement in state planning, etc., and offers a basic conceptual framework for understanding how they may cluster into more or less coherent policy postures, called here laissez-faire, central planning and market competitive postures (plus two hybrids). Further, it points to evidence that such postures can be identified empirically and suggests how the framework can be used to illuminate more and less feasible policy regime shifts as state goals evolve. Ideas are also advanced for incorporating the evolution of state policies toward the burgeoning for-profit sector into the framework. Suggestions are offered throughout regarding the applicability of the ideas to non-US settings.*

Introduction

The purpose of this article is to convey the diversity in public policies affecting private higher education in the United States, often considered the bastion of such education, and to offer a framework and relevant evidence for comprehending this diversity. The approach also provides insights into how policies and outcomes may be related and into prospects for policy change. The framework was designed to apply to cross-state analyses of policies in the United States but the basic concepts have proven useful for cross-national comparative studies as well (see, for example, Pachuashvili 2011). Within this special issue on public policy and private higher education around the globe, the article also serves to illuminate these key policy linkages in a country that is widely seen as a global model.

William Zumeta is Professor of Public Affairs and Higher Education at the University of Washington, Seattle, WA, USA; Senior Fellow at the National Center for Public Policy and Higher Education in San Jose, CA; and Fellow of the TIAA-CREF Institute. In 2009–10 he was President of the Association for the Study of Higher Education (ASHE). He specializes in higher education policy and finance, accountability policies in higher education, public policy and private higher education, and policies affecting community colleges, graduate education, and academic research.

Correspondence Address: Professor William Zumeta, University of Washington, Box 353055, Seattle, WA 98195, USA. Email: zumeta@uw.edu

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US higher education is large and diverse, with some 4500 degree-granting institutions. Over three-fifths of these are private, although the sector's share of all enrollments is much smaller at about 26.5 per cent (Autumn 2007).¹ These percentage figures are not so different from some other countries but the trends are quite different. Whereas private higher education is surging in enrollments and "market share" in much of the world, in the United States its share has been nearly stable for several decades, after a rapid post-war decline from around 50 per cent as the public sector grew dramatically. The best-known part of the US private sector, its nonprofit subsector (which includes many world renowned elite universities and colleges), is growing in absolute terms but much more slowly than the for-profits. Over 1996–2007, autumn enrollments in private nonprofit colleges and universities increased by 23.4 per cent but this sector's share of all higher education enrollments decreased slightly, to 19.7 per cent.

With close to 7 per cent of all US higher education enrollments in more than 1300 institutions in 2007 and rapid growth – from around 500 schools 11 years earlier – the for-profit sector² is clearly a force to be reckoned with by policymakers as well as by its competitors among public and nonprofit institutions (Pusser 2006; Tierney and Hentschke 2007). Enrollments in the for-profit sector more than tripled over 1996–2007. More than 70 per cent of this sector's enrollments are in schools that offer the baccalaureate degree (though many of these grant mostly two-year degrees), but there are nearly twice as many two-year as baccalaureate level for-profit institutions overall. Table 1 (bottom row) shows the 2007 enrollment shares in each of the major sectors of US higher education. The far right column sums the shares of private nonprofit and for-profit institutions. Of the 18.4 million students enrolled in degree-granting institutions, the private nonprofit sector enrolled 3.6 million and the for-profits about 1.25 million. Thus, private higher education in the United States is unique in the world in the dominance of its unambiguously nonprofit institutions³ in both enrollments and prestige, but the for-profit, degree-granting subsector is growing much faster now.

Another basic feature of American higher education helps determine the focus of this article on state policies – in the United States higher education policy is largely the province of the states, not the national government, which is unusual in higher education globally. The American federal government mainly provides financing for student support and research, although states contribute smaller shares to both of these. This federal support follows the American cultural pattern evident in many policy spheres of emphasizing competitive, market-like mechanisms. The bulk of federal academic research support is competitively awarded and private universities' faculty members compete on an equal footing, and quite successfully, with applicants from public institutions. Most federal grant and loan aid to students is awarded based on assessed financial need. The market mechanism applies in that the student may take this aid to any accredited public or private institution, including accredited for-profits. As other contributions in this issue reveal, the use of this voucher-like mechanism of government grant aid to students who can use it at private institutions is unusual in the world, although growing as Levy (2011, in this issue) notes. These federal research and student aid policies build an important foundation of competitive incentives into the American system and certainly facilitate the relative success of private institutions in an environment where the

Table 1. 2007 Enrollment Shares Within States, by Category of Institution, USA

		Public, 4-year or above	Private not-for- profit, 4-year or above	Private for profit, 4-year or above	Public, 2-year	Private not-for- profit, 2-year	Private for profit, 2-year	Total private enrollment
1	Massachusetts	23.7%	55.5%	0.6%	19.0%	0.5%	0.7%	57.3%
2	Rhode Island	29.7%	49.1%	0.0%	20.2%	0.2%	0.8%	50.0%
3	Arizona*	21.2%	1.2%	43.9%	31.4%	0.0%	2.3%	47.4%
4	Pennsylvania	36.2%	37.6%	2.7%	17.7%	1.4%	4.4%	46.1%
5	New York	30.9%	41.3%	1.9%	23.1%	0.7%	2.2%	46.0%
6	Missouri	34.6%	36.6%	3.1%	23.2%	0.5%	2.0%	42.2%
7	Vermont	45.6%	38.5%	1.5%	13.3%	1.1%	0.0%	41.2%
8	New Hampshire	41.3%	34.5%	4.6%	18.0%	0.4%	1.2%	40.7%
9	Iowa	26.3%	21.7%	17.5%	33.6%	0.1%	0.8%	40.1%
10	Minnesota	33.3%	18.3%	17.3%	30.5%	0.0%	0.5%	36.2%
11	Connecticut	36.9%	33.3%	1.3%	26.9%	1.1%	0.5%	36.2%
12	Illinois	24.2%	26.1%	7.0%	41.3%	0.2%	1.1%	34.4%
13	Tennessee	42.9%	22.4%	2.8%	28.0%	0.2%	3.6%	29.1%
14	Maine	51.5%	25.5%	0.0%	20.4%	0.3%	2.3%	28.1%
15	Utah	52.7%	22.3%	3.4%	19.4%	0.6%	1.6%	27.9%
16	Ohio	45.0%	21.5%	1.1%	27.5%	0.4%	4.5%	27.4%
17	Indiana	55.0%	21.7%	3.2%	18.2%	0.2%	1.7%	26.7%
18	Colorado*	48.7%	10.1%	13.2%	24.9%	0.1%	3.2%	26.5%
19	Delaware	46.0%	24.9%	0.0%	28.6%	0.5%	0.0%	25.4%
20	Florida	46.3%	16.0%	6.6%	28.6%	0.0%	2.5%	25.1%
21	West Virginia	57.3%	10.1%	12.9%	17.7%	0.0%	2.0%	25.0%
22	Nebraska	43.0%	21.9%	1.5%	32.3%	0.1%	1.2%	24.7%
23	Hawaii	41.3%	19.7%	3.1%	34.4%	0.0%	1.5%	24.3%
24	Idaho	60.4%	21.0%	1.3%	15.8%	0.0%	1.6%	23.9%
25	Virginia	42.1%	16.2%	4.8%	35.1%	0.2%	1.6%	22.8%
26	South Dakota	67.0%	14.6%	6.2%	10.6%	0.9%	0.7%	22.4%
27	Georgia	48.8%	14.2%	5.4%	30.3%	0.2%	1.1%	20.9%
28	Wisconsin	50.7%	17.9%	1.8%	28.6%	0.2%	0.9%	20.7%
29	New Jersey	39.8%	18.4%	1.2%	39.6%	0.1%	0.9%	20.6%
30	Kentucky	45.0%	13.3%	3.7%	35.1%	0.0%	2.9%	19.9%
31	Michigan	45.2%	18.0%	0.8%	35.3%	0.0%	0.6%	19.5%
32	Oregon	41.4%	14.5%	2.5%	39.4%	0.0%	2.2%	19.2%
33	South Carolina	43.7%	16.8%	1.0%	37.5%	0.4%	0.6%	18.7%
34	North Carolina	41.5%	16.9%	0.9%	40.0%	0.2%	0.6%	18.5%
35	Maryland	45.4%	15.9%	0.9%	36.9%	0.0%	0.9%	17.7%
36	California	25.6%	10.9%	3.2%	58.6%	0.1%	1.7%	15.8%
37	Louisiana	60.9%	11.4%	1.3%	24.3%	0.0%	2.2%	14.9%
38	Washington	39.2%	11.8%	2.2%	46.2%	0.1%	0.5%	14.6%
39	North Dakota	67.0%	10.2%	2.4%	18.5%	1.2%	0.7%	14.5%
40	Oklahoma	54.2%	9.9%	1.9%	32.4%	0.0%	1.5%	13.4%
41	Texas	42.5%	10.1%	1.2%	44.3%	0.1%	1.9%	13.3%
42	Kansas	49.7%	11.3%	0.3%	37.9%	0.2%	0.5%	12.4%
43	Arkansas	55.0%	9.5%	0.9%	33.5%	0.7%	0.3%	11.5%
44	Alabama	59.0%	8.4%	2.6%	29.7%	0.0%	0.4%	11.4%
45	Nevada*	79.3%	1.3%	5.4%	10.4%	0.0%	3.5%	10.3%
46	Mississippi	45.2%	8.7%	0.0%	44.8%	0.0%	1.4%	10.1%
47	Montana	70.5%	8.5%	0.0%	19.5%	1.0%	0.5%	10.0%

(continued)

Table 1. (Continued)

		Public, 4-year or above	Private not-for- profit, 4-year or above	Private for profit, 4-year or above	Public, 2-year	Private not-for- profit, 2-year	Private for profit, 2-year	Total private enrollment
48	New Mexico*	42.3%	2.2%	4.4%	50.5%	0.0%	0.5%	7.1%
49	Wyoming*	36.5%	0.0%	0.1%	59.0%	0.0%	4.4%	4.5%
50	Alaska	91.6%	2.3%	1.7%	4.4%	0.0%	0.0%	4.0%
~	District of Columbia	4.9%	63.8%	31.3%	0.0%	0.0%	0.0%	95.1%
Total U.S. Enrollment Shares		38.8%	19.5%	5.1%	34.7%	0.2%	1.7%	26.5%

Note: Includes institutions that award associate's and higher degrees only.

Source: U.S. Department of Education, National Center for Education Statistics, Integrated Postsecondary Education Data System (IPEDS), 2007.

*For-profit enrollment share exceeds private nonprofit share.

In 2007, total postsecondary enrollment in the 50 states and District of Columbia was 18,440,953, plus 228,775 in the U.S. territories.

Total U.S. enrollment shares excludes U.S. territories (American Samoa, Federated States of Micronesia, Guam, Marshall Islands, Northern Marianas, Palau, Puerto Rico, and Virgin Islands).

publics naturally get the lion's share of direct state subsidies and hence are able to charge much lower tuition (around \$25,000 on average for private baccalaureate institutions compared to \$6,600 for public baccalaureates and \$2,400 for public two-year colleges for state resident students).

Yet, given this baseline set by federal policies that reflect typically American policy ideas, in many ways the most interesting questions for scholars of higher education policy lie at the state level, particularly for those concerned with comparative policy studies. The 50 American states vary widely in their size, needs, histories, demographic and other characteristics, politics, economics, and in the nature of their respective private and public higher education sectors. Not surprisingly then, they also vary in their policies affecting private higher education which provides fertile ground for both *policy scientists and scholars* who seek primarily to understand the determinants of policies and their variation and *policy analysts* seeking to assess policy impacts.

The article offers a conceptual framework for thinking about the types of state policies affecting private higher education, for how these cluster into more or less coherent *policy postures* in US states, and for beginning to assess impacts on typical higher education policy goals such as participation rates, responsiveness to population growth, public expenditures per student, and quality indicators. These goals are pertinent to higher education policy everywhere so the framework has potential applicability to any nation with a significant private sector to help pursue them. I will also suggest how earlier analyses on this subject might be extended to consider the for-profit sector, for this sector's past growth and future potential are

undeniable. On this point US private higher education shares much with recent patterns elsewhere.

Variation Across the States

Size of the Private Sector

The range across the states in private enrollment shares is large (see Table 1), from just 4 per cent in Alaska and around 4.5 per cent in Wyoming (where all the private enrollments are in for-profit schools), to more than 57 per cent in Massachusetts and 95 per cent in the national capital district (District of Columbia, or DC). Three states have total private shares of less than 10 per cent while nine have private shares of more than 40 per cent.⁴ Fully 29 of the 50 states have private enrollment shares of 20 per cent or more, so this sector is a significant player in the majority of states.

There are clear regional patterns with many, but not all, of the older states in the eastern half of the country having substantial private shares as a result of a long history of private nonprofit higher education⁵ that often predates the state's public collegiate sector (Trow 1993). In the western half, where dense settlement came much later, the smaller numbers of private nonprofits often emerged after the state institutions, which typically offered very low tuition rates. Receiving little help from state policies, with few exceptions the private higher education sectors in the Great Plains and West have not grown large in either absolute or relative terms.

Thus far, different dynamics seem to apply to the emergence of relatively large for-profit shares within certain states. The effects of state policies toward this sector have been little studied but we know that in many states different oversight agencies have jurisdiction over the for-profits or, where they have jurisdiction, state higher education agencies pay scant attention to these schools. Thus, it would not be surprising if policies and outcomes were different compared across the two private sectors, as well as different across states. The states with relatively large for-profit shares tend to be in the western regions. Also, the larger for-profit shares (i.e. defined here as more than 8 per cent of total enrollments) are concentrated in states with relatively small private nonprofit sectors, ranging from Nevada's roughly 1 per cent to Florida's 16 per cent. Thus, the for-profits in these states may be responding to relatively vacant market niches (Birnbaum 1983), with state policies at least not preventing this and perhaps encouraging it. Numerous economic and regulatory factors yet to be explored, as well as the autonomous actions of large for-profit chains responding to market conditions (Kinser 2007), no doubt contribute to the variable size of this sector across states.⁶

State Policies That Affect Private Higher Education

Earlier work on state policies affecting private higher education (Zumeta 1992, 1996) identified several areas of state policy that could plausibly have significant impacts on private nonprofit colleges and universities. These are explained next. Later, I broaden the perspective somewhat to take account of the for-profit schools.

Student aid policies. In addition to the nearly \$21 billion in grant aid and almost \$67 billion in loan aid provided by the federal government to college students in 2007–08 (College Board 2008b: 6), the states provide a substantial sum too – \$10 billion in that year, of which \$8 billion was grant aid (National Association of State Student Grant and Aid Programs 2009). This state student aid is largely reserved for students enrolling within their home state and most of it is available to students enrolling in private nonprofit institutions.⁷ Such state student aid makes little difference to the finances of well-endowed private universities (Harvard, Stanford, etc.) and liberal arts colleges (Amherst and such) which can afford to provide needy students from anywhere with aid beyond what the federal government provides and can use their own resources to aid other, non-needy students they wish to entice (Bowen and Breneman 1993). The state aid can be important though to the competitiveness of the much more numerous (and modest) private colleges that serve a mostly local market and must moderate their “net prices” (tuition minus aid) in order to compete with tax-subsidized public competitors.⁸

There is great variation across the states in the amount of state student grant aid available per member of the “college age” population (ages 18–24) in 2006–07. Wyoming provided just \$3 of student grant aid per person of college age while South Carolina provided \$646. Fifteen states provided less than \$100 per college age person while 14 states, plus DC, provided more than \$300. The skewed distribution across states is evident in that only 17 states (plus DC) exceeded the aggregate national figure of \$256 in state grant aid per person aged 18–24.

Thompson and Zumeta (2001) provide evidence from multivariate empirical analyses that this variation affects the enrollment success of modest selectivity private colleges and their ability to enroll minority students, so there are discernible implications for important state policy goals. The states in the eastern United States generally fund student aid most generously while western states dominate the bottom ranks, likely reflecting both the typical proportional size of the private sector within these regions and its efforts to influence state policies (Zumeta 1992). From a policy perspective, a state facing strong enrollment growth pressures but with limited resources to expand its public institutions might use student aid policy actively to seek to shift some student demand from the public to the private sector, which could well be cost-effective. As will be shown, some states appear to do this.

Direct financial subventions to private institutions. Zumeta (1992, 1996) reported on two surveys of knowledgeable state officials showing that seven states provided direct appropriations to private colleges or universities and another 18 had some type of contract arrangement with one or more private institutions.⁹ In some instances the state pays the private institution per student enrolled, often in designated fields of state need and high cost such as medicine and nursing. In about half (27) of the 53 direct subvention or contract programs identified in the surveys both private and public institutions were eligible for funds. This implies that policymakers in these states, at least on occasion, view private institutions as alternative providers of enrollment or other services and seem to look to them in cases where public sector provision would be especially costly.

Yet, half or more of the states provide no such direct funding to their private colleges or universities and in most cases where it is present the amounts are modest,

probably not exceeding \$200 million nationwide (Zumeta 1992, 1996). In some instances these limited relationships seem to apply because such government–private ties are seen as inappropriate under state constitutional provisions (often due to strictures against public aid to religiously affiliated institutions), or because of some institutions’ desire to avoid government entanglements. Policymaker mindsets dominated by a sense of the primacy of public higher education also play an important role. Perceptions and politics regarding the legitimacy of state financial support for private academic institutions, as distinct from aid to their students, are evidently deep-seated and not readily subject to rapid change (Zumeta 1992, 1996).

Public sector tuition policy. A state policy of importance to many private colleges and universities is how much their public competitors charge students. Tuition at public institutions varies widely across the country (College Board 2008a). While state bodies do not usually set tuition rates directly, they have a strong influence because public tuition charges are politically sensitive and state policymakers have leverage through their power over the schools’ state funding. Although impacts of public tuition rates on private institutions are rarely explicitly taken into account in such policymaking, there is a positive statistical relationship between public higher education tuition levels and the enrollment share of a state’s private sector (Zumeta 1992, 1996). Also, Thompson and Zumeta’s (2001) multivariate analyses found that, as the private–public “tuition gap” widened, enrollment gains by competitively vulnerable types of private institutions were smaller or negative. Thus, this dimension of state policy has a considerable indirect impact on the fortunes of the more sensitive private institutions: those that enroll mostly state residents and that thus compete directly with public institutions.

Participation in state planning and program review. Private higher education can presumably better look after its interests – and arguably public needs can be more comprehensively and cost-effectively served – if the sector has a place at the table when state government plans new ventures in, or affecting, higher education.¹⁰ In addition to new campuses and academic programs, these might encompass matters like technology infrastructure, library facilities, or programs to encourage research and technology partnerships with industry. If private higher education participates in planning and policy development for these initiatives, they should be more likely to lead to arrangements that benefit these institutions and their students, who are in most cases state citizens.

In regard to the usual practice of state review and approval of new academic programs proposed by public institutions, if private institutions affected by the lower-priced competition are allowed to weigh in, outcomes are likely to be more favorable to them overall. This could also work in the public interest if it served to preserve private sector capacity operated at little or no public expense. On the other hand, it could also help protect weak or inefficient private programs. Empirically, Zumeta (1992, 1996) found that the level of private sector involvement in state planning and whether or not state reviews of new public sector academic programs took impacts on private institutions into account were consistently related to the other types of state policies mentioned.

State mandates and regulations affecting private higher education. States also vary in the extent to which they apply mandates and regulations to private academic institutions. Information and accountability requirements provide one example (Burke 2005; Zumeta 2005; Ewell and Boeke 2007). More generally, some states simply direct and regulate their higher education systems more than others and may even seek to apply mission controls or other types of restrictions to private institutions in much the same way as they do to publics. The earlier surveys asked about the extent of such mandates and regulation and found that the answers were correlated with the other state policies.

Other policies. In principle, tax and institutional licensing policies are also relevant. But useful data on state tax policies affecting private higher education has proven hard to obtain. In the past, in the United States, unlike in some other countries (see Levy 2011; Bernasconi 2011; and Pachuashvili 2011), state licensing powers have not generally required much of private nonprofit academic institutions, especially well established ones (Zumeta 2005), thus there has been little policy variation to explore. Thus, these potentially relevant dimensions of state policy are not incorporated in the empirical analysis discussed below.

Understanding the Variation in State Policies Toward Private Higher Education: A Conceptual Framework

The diversity of private higher education sectors across states and the range of state policies affecting them – enacted at different times and intertwined as they are with broader higher education policies – may make it seem futile to try to comprehend policy determinants and patterns of impacts systematically. But this need not be the case. Howlett (1991) describes a school of thought on the study of policy instruments, the continuum school, with its roots in policy classics like Dahl and Lindblom (1953) and Kirschen (1964). In this view coherent conceptions of policy instruments, such as the policy regimes described below, are most useful in understanding instrument choice. For most policy tasks a number of tools are available (Salamon 2002) but policymaker choices among them are driven more by political, social, economic, and ideological variables than by rational assessments of which tool best fits which task. Howlett (1991: 8) concludes a discussion of the thinking of “policy design” theorists such as Linder and Peters (1989) by noting that design theorists think that policy instruments are often “technically substitutable but context-ridden ... For the design theorists, then, instrument choice is ultimately a political decision heavily influenced by the nature of beliefs, attitudes and perceptions held by bureaucratic and political decisionmakers”.

State policies toward private higher education – or national policies in unitary states (see Pachuashvili 2011) – may potentially be usefully understood then in terms of the following schema focused around three broad conceptual categories of *policy postures*, or clusters of reasonably consistent policies in different domains, that can be seen as animating state policies toward private higher education. These categories are: *laissez-faire*; *central planning*; and *market competitive*. The basic idea is that state

policy can largely ignore the private sector of higher education (*laissez-faire*) or it can become more actively involved with this sector in an effort to utilize its resources to help achieve public policy goals.¹¹ If the state chooses involvement, the most logical directions are (a) either some steps toward a *centrally planned* approach that, in the extreme, treats the private sector much like public institutions that are planned for by the state; or (b) a less directive approach that works more or less in concert with *market competitive* mechanisms (especially student choice). An active state could go more or less distance down each of the latter paths and might even try some “mixing and matching” of policies from the central planning and market competitive policy “tool boxes”.¹²

Understanding such policy coherence, if it exists even approximately, is not only interesting theoretically but has practical uses in illuminating what types of policies are likely to be feasible and in forecasting impacts. The essential features of each of these state policy postures are described next, followed by a review of empirical evidence supporting that this taxonomic framework (supplemented by two “hybrid” postures combining features of the basic types) matched policy realities in the US states fairly well at a particular point in time. Then some comments about future research priorities are offered with due attention to the growing importance of the for-profit sector.

The Laissez-faire Posture

In this posture, the state generally ignores private sector present and potential contributions to state policy goals and leaves the sector largely to its own devices. Only minimal information is collected about the sector, it is uninvolved in state planning, and its interests receive no consideration in setting tuition rates at public institutions or in approval of their new academic programs. In such a state, private colleges and universities do not receive direct state financial subventions and their students would be expected to get at most minimal benefit from state financial aid programs.¹³

Such a hands-off posture seems most likely to occur in a state with a relatively small private higher education sector, especially where this sector is dominated by institutions with religious or other principles calling for minimal involvement with the state.¹⁴ A small private sector may not seem worthwhile for policymakers to bother with in terms of contributions to state policy goals or, concomitantly, in regard to information or accountability. Its interests can safely be ignored in state academic planning and program review. The sector itself would likely feel it had little capacity to influence state policy, e.g. to seek direct state subventions or a larger or more favorably designed student aid program, and, as suggested, some religiously oriented institutions have little inclination to try. Independent of sector size, in general we would expect that states with a tradition of more limited government would be more likely to adopt this posture. Another favorable factor would be a state higher education governance arrangement built upon a statewide governing board for the public sector only rather than a “coordinating board” with a purview including the private sector.¹⁵ Regionally, in the United States this combination of conditions tends to be met most often in the western part of the country and, to a lesser extent, in the south.

The Central Planning Posture

In this approach, state policy seeks to utilize private higher education explicitly to help achieve state policy goals such as access, degree production, cost-effectiveness, technology transfer, etc., and is inclined to be relatively directive, i.e. applying mandates and regulations more or less extensively, in accomplishing this. Thus, a well developed central planning state would operate from a “master plan” for higher education that would encompass the private sector, would involve it in planning, and would essentially assign this sector certain tasks or geographic service areas. In some cases (e.g. New York, Florida) the state may adopt legislation or even constitutional provisions giving it authority to direct some aspects of mission and program configurations of private institutions it licenses. More common in the US context of considerable respect for private prerogatives and limited state constitutional authority would be provision of strong state incentives for private institution participation in the centrally planned policy regime via direct financial subventions or, at least, relatively generous student aid accessible to private sector students. In this type of regime, the state would seek extensive information from private institutions in order to ensure compliance and accountability, approaching the information collection mandated from public institutions.

We would expect to see such a regime emerge most commonly in states with a combination of a “strong state” orientation to policymaking in general and a sizeable private sector that could actually make a substantial contribution to state policy goals. A private sector whose attitude was *not* basically one of bitter resistance to state direction and support – e.g. typically secular or Roman Catholic institutions in the United States who have generally been much friendlier with state governments than their Protestant or other religious counterparts¹⁶ – would be most conducive to the emergence and sustenance of such a policy regime. As for governance, a statewide governing board would presumably have greater authority to impose mandates but the coordinating board form should be more cognizant of the private sector so the linkage to the central planning posture is indeterminate. Regionally, the conditions most strongly linked with this posture are most common in the northeastern United States and in some states in the eastern and northern parts of the “Midwest” (central) region.

Although the issue is little studied, it may well be that states with a central planning orientation toward the public and private nonprofit sectors will eventually adopt a similar posture toward for-profit providers too as these become more prominent and force some policy response. The same broad political culture factors in states are at play that would push in this direction although it may take some time for institutional arrangements – as noted these often currently oversee the for-profit sector by an agency separate from that which governs nonprofit higher education – to catch up with developments. This lag could well mean different approaches for the time being so the institutional dynamics are interesting. For-profits will surely seek greater access to state support through student aid programs and participation in planning and even to direct state subventions for particular purposes (Pusser 2006). With such access would logically come greater information and accountability requirements,

especially in a regulatory-oriented state where there might well be skepticism about the integrity of for-profit education providers.

The Market Competitive Policy Posture

In this approach, as with central planning, the state policy regime is built on the basic notion of harnessing a substantial private sector to help achieve state policy goals. Yet the vision of how to accomplish this is notably different. In the market competitive regime the state uses limited specification of institutional missions or service areas and little direct regulation but instead signals its policy goals mainly through incentives and other measures to stimulate effective competition. Thus, a relatively large part of basic financial support for higher education in a market competitive state would be provided in the form of student aid grants that students could take to their school of choice, as compared to institutional subsidies. To make public-private competition more equal, state policy might well encourage relatively high public institution tuition, combined with substantial student aid along the lines described. This approach would also tend to reduce state expenditures since the non-needy would be less subsidized.

Direct state subventions to private institutions in the true market competitive regime would come in the form of competitive contracts for specific services – e.g. to enroll a certain number of medical or engineering students in a private university if it were judged more cost-effective than expanding the public sector. State planning would be inclusive across sectors but would focus on identifying state needs and the terms of bidding for associated resources to meet them rather than on direct decisions about which institutions would get particular facilities or programs. In such a regime, information and accountability policies would be as much about provision of usable information to the public and consumers of higher education services as about aiding policymaker decisions, the primary focus in a central planning regime. States with market oriented policy cultures across policy domains would be expected to be more likely to entertain such an approach in higher education. In general, we might expect states with proportionally large and influential private higher education sectors to lean toward this approach since private institutions can clearly benefit from the more “level playing field” it provides them and will tend to have greater political weight. States with coordinating board governance rather than a state governing board focused primarily on the public sector would provide a more favorable climate for this posture. Regionally, this combination of characteristics is most common in the Midwest and south regions.

As for policies towards for-profit higher education, once initial laissez-faire inertia were overcome, we might expect a market competitive state vis-à-vis the private nonprofit sector to move to treat for-profit providers similarly. So, we would expect to see more rapid movement toward opening up state student aid and other higher education programs and participation to for-profit institutions than would be the case under the other postures. Critical to this thrust though, in light of concerns about for-profits’ potential to exploit students, would be greater state vigilance than has typically been the case on quality assurance and consumer protection. In a market competitive climate, one would expect policymakers to seek to do as much of

such oversight as possible through market mechanisms, emphasizing consumer information, rather than direct regulation.

Supporting Evidence for the Framework

Zumeta (1996) scored all 50 states on the six policies toward private (nonprofit) higher education on which data could be collected. As described, these were: student aid policies; direct subventions/contracts with private colleges or universities; public higher education tuition levels; extent of state mandates and regulations affecting private higher education; extent of private sector participation in state planning; and consideration of duplication of private sector programs in academic program reviews of new programs proposed by public institutions.¹⁷ In addition to theoretically based arguments for coherent policy postures, he found a pattern of bivariate correlations among the policies within states that suggested they were indeed related so that it was justifiable to look for coherent underlying rationales and possible determinants thereof (Zumeta 1996: 383–385). Cluster analysis was used to classify the patterns of policies in 45 of the 50 states into one of the three basic policy posture categories previously described plus two hybrids (laissez-faire–market competitive and central planning–market competitive),¹⁸ as shown in Figure 1.

These policy clusters were also empirically linked to both pertinent state characteristics (region, private enrollment share, state higher education governance structure, per capita income, and “tax effort” [the ratio of state and local revenue collections to aggregate personal income]) and to outcomes of interest to policy-makers (overall participation rate, responsiveness of private enrollments to population growth, and containing taxpayer spending on higher education without degrading public sector quality). Some patterns identified provide suggestive clues about the likely political feasibility of moving from one posture toward another in pursuit of a more attractive mix of outcomes. For example, as expected, laissez-faire states tended to be in the western regions, to have small private enrollment shares, and to utilize the governing board form of statewide governance. These states also tended to be low in per capita income relative to all states so, despite a relatively high tax effort, were not able to achieve spending per student in their public institutions (a rough proxy for educational quality) or overall higher education participation rates at the national average.

Probably in part because they were disadvantaged by state policies, private sectors in these states were generally unable to expand enrollments very much over the historical period studied (1982–88) even though their population growth tended to

Figure 1. State policy postures toward private nonprofit higher education

Laissez-Faire Cluster (14 states) – Alaska, Arizona, Arkansas, Hawaii, Idaho, Kansas, Mississippi, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Utah
Laissez-Faire–Market-Competitive Hybrid (4 states) – Delaware, Kentucky, Nebraska, Vermont
Market-Competitive Cluster (8 states) – Colorado, Georgia, Michigan, New Hampshire, North Carolina, Rhode Island, Texas, Wisconsin
Market-Competitive–Central Planning Cluster (14 states) – Alabama, Connecticut, Indiana, Iowa, Louisiana, Massachusetts, Minnesota, Missouri, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia
Market-Competitive Cluster (5 states) – Florida, Illinois, Maryland, New Jersey, Oregon
Not classifiable (3 states) – California, Washington, West Virginia

Source: Adapted from Zumeta (1996: 397).

be strong. Though it would likely benefit these low wealth, high tax effort states to move toward more favorable policies toward private sector growth, their small private sectors generally lacked political influence and the statewide governance arrangements in most of them built around boards primarily responsible for managing the public institutions did not provide favorable conditions for such changes. Finally, it would likely be challenging in low wealth states with below average per-student spending in public higher education to convince policymakers that more state aid for students attending private institutions or direct state support to the schools would be cost-effective.

Yet, this research found empirical signs that encouraging enrollments in the private higher education sector by such means – not an implausible strategy theoretically – could be cost-effective in moderating overall state spending on higher education (Zumeta 1996: 402–404). Most interesting perhaps, the market competitive policy posture cluster of eight states, generally with above average private enrollment shares as expected, was found to have the highest average overall participation rate among the five policy posture clusters identified and private sectors whose enrollment gains tracked population growth very well. As a group, these states showed no higher than average state spending on higher education and well below average tax effort. Also, it does not appear that this market competitive set of policies hurt quality in the public sector as these states' spending per student in this sector was very close to the national average.¹⁹ In sum then, this set seems an attractive and cost-effective combination of policy results.

Yet, it is not clear that such a combination of policies is feasible for all states. In addition to the problems likely to face a *laissez-faire* state contemplating “regime change” just delineated, consider a central planning state seeking to alter its policy posture *vis-à-vis* private higher education. The central planning cluster of five states was found to be on average the wealthiest among the clusters while also making the lowest tax effort. Private enrollment shares in these states averaged only slightly less than the national norm but this sector's enrollment growth tracked well below population gains. And, these states' overall participation rates were below the national average. Moreover, their mean state spending on higher education was the lowest of any cluster and their per-student spending in the public sector was also lowest. Thus, these states were managing their higher education systems quite closely but spending relatively little and did not appear to be getting particularly good results in terms of participation, quality, or private sector contribution to enrollment capacity.

Clearly, a state with such a policy regime in place developed over a long time would be unlikely to make rapid wholesale shifts. However, if a central planning state sought to add some market competitive elements to its policy mix, it could plausibly look for feasible models to the cluster of 14 states classified as central planning–market competitive hybrids. These states typically retained considerable mandates and regulations affecting the private sector and regulated inter-sector competition fairly tightly but also provided some direct aid or contracts to private institutions, made substantial student aid available to private sector students, and allowed considerable involvement of the private sector in state planning. This cluster had the highest average private enrollment share of the five (whereas the central planning states were a bit below the national average) and 11 of the

14 hybrid states had coordinating board governance (as did three of the five central planning states), suggesting the presence in the majority at least of the central planning states of conditions potentially supportive of more market-oriented policies. The hybrid cluster states spent substantially less than average on higher education overall but more than average per student in the public sector. Although their overall participation rates tended to be below average, private enrollments in these states were growing well above population growth rates. In short, this fairly attractive combination of policy results might be within reach of central planning states able to entertain some modest policy changes in the market competitive direction.

Although the results described above make use, for the sake of clarity of exposition, primarily of bivariate correlations and measures of central tendency in the policy posture clusters, the original study also employed multivariate analysis to assess the ability of the various state variables to discriminate among the policy postures. While somewhat complex, the results were consistent with the above discussion (Zumeta 1996: 412–414).

Conclusion

The analysis just described applied to a particular time period and would need to be updated in order to accurately guide scholars and policymakers today. Ideally, the changes over time in both policies and their relationships to the state and outcome variables could be traced to provide fuller insights into likely causal linkages. Equally important would be to incorporate states' policymaking toward the surging for-profit sector. Are most states still in the *laissez-faire* policy mode with respect to this sector as it appears? How important is sectoral enrollment growth in stimulating what Levy calls reactive policymaking and how does this work itself out? Is there a typical "tipping point" in enrollments or market share where the state can no longer sustain a *laissez-faire* stance? What other factors are important drivers of state policies toward the for-profit sector? How important, for example, is the role of active political lobbying by for-profit interests, which can make direct contributions to politicians' campaigns that nonprofits cannot (Cook 1998; Pusser 2006)?

Institutionally speaking, what difference does it make whether a state oversees the for-profit sector via its higher education agency or another agency? One might hypothesize that a higher education agency would be more likely to see at least degree-granting for-profits as logical to incorporate within a similar policy rubric as nonprofits than would a state vocational education or consumer protection agency. In any case, most interesting given the questions raised in this paper would be: what do state policies that govern the for-profit sector tend to look like once they emerge? Do market competitive states vis-à-vis the private nonprofit sector tend to adopt similar market-oriented approaches to their for-profits (and similarly for the other policy posture types)?

For-profits would seem likely to seek to move policies in the market competitive direction as they usually make the case that they too are educating state residents who should have an equal claim to student aid funds; that their institutions should have equal access to state planning for higher education and its programmatic

results; and that they should be able to access direct state subventions aimed at particular policy purposes (e.g. increased degree production in their fields). Given for-profits' lobbying potential and, in some states at least, the fact that they are overseen by a higher education agency that also oversees nonprofits, one might ask if the influence of for-profits could move overall state policies toward the private sector in the market competitive direction even in a state that had formerly taken a central planning stance. In short, at what point might what was formerly the tail begin to wag the dog of state higher education policy? It would be instructive for researchers to examine in this light the recent dynamics of higher education policy development in several states in Table 1 where for-profit enrollments have grown rapidly and now approach or surpass those in the nonprofit sector.

I offer two concluding thoughts. First, empirical studies in this field should seek to advance knowledge and policymaking practice by studying policy *dynamics*, to the extent data permit, rather than policy *statics* alone. It is in the course of attending to the complex of factors that move both policies and outcomes over time that we can learn most about how things come to be the way they are and how they may or may not be alterable in particular types of contexts, as well as what alterations would be desirable in light of specific, perhaps changing, policy priorities. Theory-based constructs about policy linkages can help in making sense of the complexity for both scholars and practicing policy analysts. This suggestion would seem to apply to comparative studies of public policies across country contexts as well as across the US states.

Second, given the emerging role of the for-profit sector in higher education and its likely further growth in the US and around the globe, it is important that US studies of public policy and private higher education take ample account of this sector. We need to understand the interactions of the two private sectors in the marketplace and in politics and learn how similar or different are the factors that determine state (and national) policies toward these two sectors. Can distinct policy approaches long survive large-scale growth on the for-profit side? What are the consequences of different or similar approaches to the two private academic sectors?

In short, there is much more to learn about the dynamic interactions of public policy and private higher education in its several forms.

Notes

1. These figures include degree granting (two-year associate's degrees and above), private nonprofit and for-profit institutions eligible to enroll federally aided students. Data are from the US Department of Education's Integrated Postsecondary Education Data System.
2. I restrict consideration to for-profits that grant government-recognized academic degrees at the associate's level or higher (see also note 1), which requires that the institution be accredited by a federally recognized entity.
3. Some other countries have larger ostensible nonprofit sectors, but this is often because for-profit status is legally impermissible for educational institutions and the schools behave much like for-profits.
4. In Arizona, one of the latter group and home of the enormous University of Phoenix, more than 96 per cent of the private sector enrollments are in for-profit institutions.
5. This pattern is similar to private higher education's history in other countries within regions with large private sectors that started early, in particular in East Asia (e.g. the Philippines) and Latin America (e.g. Colombia) (Levy 2007; Levy forthcoming).

6. Perhaps because it is hard to distinguish for-profits from nonprofits in many national legal systems that are not attentive to the distinction (or preclude for-profits in education), the relationship between growth patterns in these subsectors has been little studied in the comparative private higher education literature. It is worth examining for the two types may experience different policy regimes and produce different outcomes.
7. Students in accredited for-profit degree-granting schools are also eligible for at least some state aid programs in the majority of states (National Association 2009: 17–18), a fairly recent trend reflecting the growing importance of this sector and its aggressive lobbying (Pusser 2006). About 29 per cent of need-based, state grant dollars in 2006–07 were awarded to students enrolled in private nonprofit institutions and 5.4 per cent went to students in for-profit schools (Pusser 2006). The nonprofits' share of state student aid exceeds their share of national enrollments (20 per cent) by nearly half while the for-profits' share is a bit short of its 6.5 per cent of enrollments.
8. In surveys of state private nonprofit collegiate sector leaders conducted by the author in 1988 and 1993, student aid was rated first in importance to the private sector by a wide margin among the state policies affecting them. This is almost certainly still true.
9. The two surveys showed little change over the five years between them. More recent, less complete data, collected by the National Association of Independent Colleges and Universities State Executives in 2005–06 (Benedetti 2007), suggests little change in either the states or the modest level of resources involved.
10. This echoes arguments heard increasingly in other countries as private higher education's importance grows (see Levy 2011).
11. For an early version of this basic idea, see Breneman (1981). Another possibility is that state policies may simply be incoherent rather than pursuing any consistent philosophy or strategy. Whether that is commonly the case is subject to empirical testing, as discussed below.
12. Some broadly similar ideas have been advanced in the European higher education policy literature. Neave and van Vught (1991) refer to "state control" versus "state supervising" regimes with the former employing stringent rules and extensive controls similar to an extreme version of my central planning conception and the latter at least potentially (but not necessarily) utilizing market mechanisms as the key steering device. Gornitzka and Maasen (2000: 270–272) describe four models ranging from "sovereign, rationality-bounded steering" (similar to Neave and van Vught's state control model) through "institutional steering" (traditionalist, academic-centered) and "corporate-pluralist steering" (corporatist) to "supermarket steering" which depends largely upon market mechanisms and signals. Since Europe has little private higher education, none of these conceptions are attendant to this sector, however.
13. These state student aid programs have other policy purposes besides aiding students at private institutions and are mildly encouraged by small federal matching grants, which require that private sector students be eligible.
14. While this conceptual schema was originally developed to comprehend state policies toward private nonprofit higher education, it is notable that the laissez-faire policy posture seems to fit many states' approaches to the for-profit sector at present. In light of Levy's (2011) observations about "reactive regulation" to private (often, at least behaviorally, for-profit) sector growth in many other countries, it will be interesting to see how closely the pattern of increased policy activity in US states follows that seen elsewhere if the for-profit sector continues its recent growth patterns.
15. These are the two dominant forms of state higher education governance in the United States (Education Commission of the States 2001). For evidence on the tendencies of the two forms in regard to policies toward the private sector, see Zumeta (1992).
16. A similar pattern is also seen in the eager embrace of relations with the state by Catholic institutions in Latin America as contrasted with the reluctance of many African institutions of evangelical Protestant origins (Levy 2008).
17. Data on the first three policies were acquired from standard sources. The data on state contracts with private institutions and private sector involvement in planning and program review were derived from a survey by the author of state higher education agency heads. This survey and a parallel one of state private higher education association heads provided the data on state mandates and regulations affecting the private collegiate sector.
18. See Zumeta (1996) for a full explanation of the coding scheme and classification criteria for the cluster analysis. Two of the 50 states were excluded from analysis for reasons of insufficient data or lack of

- any private nonprofit institutions while the set of policies in place in three more did not fit the criteria for any of the hypothesized policy postures.
19. Across the 50 states, multiple regression analyses found no relationship between private enrollment share or policies toward this sector and this basic indicator of public higher education quality (Zumeta 1996: 404).

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