

Article 7, Section 16 of the Wyoming Constitution states that “The university shall be equally open to students of both sexes, irrespective of race or color; and, in order that the instruction furnished may be as nearly free as possible, any amount in addition to the income from its grants of lands and other sources above mentioned, necessary to its support and maintenance in a condition of full efficiency, shall be raised by taxation or otherwise, under provisions of the legislature.”

This language derives from the spirit of the Morrill Land Grant Act of 1862, whose Section 4 sought to expand free advanced education for U.S. citizens. In their book, *Higher Education Finance Research*, McKeown-Moak and Mullin write, “It was the intention of the Morrill Act to provide free or almost free education to students through federal appropriations for higher education.” This intention was followed by the Morrill Act of 1890, setting forth the sale of state lands as a “more stable source of revenue to the institutions” (McKeown-Moak and Mullin 2014, 68; Vermont Senate, 1890, 333). This is why the Wyoming State Constitution refers to income from “its grants of lands and other sources.”

As a result of the Morrill Acts’ federal encouragement of higher education, two other state constitutions besides Wyoming have very similar language. The Arizona Constitution, Article 11, Section 6, seeks to ensure that “instruction furnished shall be as nearly free as possible.” The North Carolina Constitution, Article 8, Section 2, states that higher education shall be extended to state citizens “free of expense” to the extent practicable. The constitutions of other states authorize their state legislatures to determine to what extent their higher education will be “free.” These include North Dakota, which in its own Article 8, Section 2, provides for free education up to an including “schools of higher education,” although “authorizing tuition and other charges for higher education.” This same caution about authorizing tuition as necessary is visible in the Wyoming Constitution at Article 7, Section 1, which provides for “establishment and maintenance” of “a university with such technical and professional departments as the public good may require and the means of the state allow.” (Tarr and Williams, 2006, 291; Harnisch and Lebioda, 2016).

As for Wyoming Constitution Article 16, the Wyoming Attorney General’s Opinion 89-016, Oct. 11, 1989, was that the injunction to make the university “be as nearly free as possible,” is “actually advisory, since it requires considerable discretion by both the legislature in making appropriations and the board of trustees in setting tuition levels” (quoted in Keiter and Newcomb, 2011, 187).

Bibliography

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