

HIGHER EDUCATION FUNDING IN MONTANA

Introduction

This narrative provides a brief history of the governance and funding of higher education in Montana, as well as a brief discussion of the state funding issues that the legislature will be facing with regard to higher education in the 2013 legislative session.

Higher education funding in Montana is unlike any other state agency due to the sometimes competing forces of the Board of Regents' (BOR) governance authority over the Montana University System (MUS) granted by the Montana Constitution and the exclusive authority of the legislature to appropriate public operating funds, which is also granted by the Montana Constitution. In addition, the diverse nature of funds supporting the university system adds to the complexity of higher education funding in Montana.

Governance of the Montana University System

The governance of the Montana University System underwent a profound change nearly 40 years ago with the adoption of the 1972 Constitution. Under the 1889 Constitution, general control and supervision of the university system was vested with a Board of Education responsible for all Montana public education, including higher education. The 1889 Constitution provided that the duties and powers of the Board were prescribed and regulated by law. Practically speaking, the legislature had a significant amount of control over the Board and university system, including management and academic areas.ⁱ Although the governance system had its share of challenges, it remained in effect until Montana's new constitution was adopted in 1972.

Montana's 1972 Constitution created the Board of Regents to govern higher education. The 1972 Constitution grants full power, responsibility, and authority to supervise, coordinates, manage and control the Montana University System to the Board of Regents. With this change, the power and control over the university system shifted to the board, limited only by the language of the Constitution, while the legislature retained the power to appropriate and audit funds.ⁱⁱ

Legislative Appropriation Authority

The appropriation of funds is a legislative power in both the 1889 and 1972 Montana Constitutions.

In a 1975 Montana Supreme Court ruling addressing the authority of the newly formed Board of Regents and the scope of the appropriation power of the Montana legislature, the court provided guidelines the legislature must consider in the appropriation process,ⁱⁱⁱ including:

- The Board of Regents is subject to the legislature's appropriation power and public policy, but the legislature cannot do indirectly through the means of line item appropriations and conditions what is impermissible for it to do directly.

While the court recognized the importance of line item appropriations to the legislative process to develop a budget and ensure strict accountability of state funds, it noted line items could not be used to infringe upon the Board of Regents authority to "supervise, coordinate, manage and control the university system". For example, the legislature cannot eliminate a specific program on a university campus, such as the law school, because this is a management decision of the Board of Regents.

- The legislative appropriation power extends beyond the general fund and encompasses all those public operating funds of state government, but does not extend to private funds received by state government that are restricted by law, trust agreement, or contract. Student tuition and fees and foundation donations are considered private funds.
- The legislature may, within reason, attach conditions to university system appropriations that, if accepted by the Board of Regents, bind them to the conditions.

The legislature has conditioned appropriations to the university system. An example of an appropriation condition set by the legislature is contained in HB 2 passed by the 60th Legislature whereby the line item appropriation for the WICHE/WWAMI program was restricted such that any unspent appropriation could only be used for other student assistance programs.

Examples of appropriation conditions that are unreasonable in the court's view include limiting salary increases for university system personnel, and directly attempting to set tuition rates.

Finally, the court said that the regents' power to govern must be harmonized with the legislature's power to appropriate, set public policy, and ensure strict accountability of state revenues and expenditures.

State Appropriations

The legislature considers many factors to develop the state appropriation for the MUS including:

- State funds available
- Legislative priorities
- Governor's recommendation
- Board of Regents' requests
- Projected student enrollment
- Base year actual expenditures, funding, present law adjustments, and state percent share of expenditures

State funds are an important component of university funding because:

- State general fund support is the second largest source of current unrestricted revenue for the MUS, after tuition
- General fund appropriations in House Bill 2 provide the vehicle with which the legislature may have a public policy impact upon the MUS

Since the 1995 legislative session, the legislature has combined the line item appropriation for the MUS educational units and most of the programs in the Office of the Commissioner of Higher Education into a single, biennial lump-sum appropriation. The BOR then reallocates the lump sum appropriation to MUS agencies and educational units. [Note: the BOR reallocation typically closely reflects the original legislative appropriation.] Appropriations for the MUS research and public service agencies, community colleges, and the tribal college assistance program are contained in line items in the general appropriations act (House Bill 2). Long range building funds are appropriated in House Bill 5 for capital projects. The legislature also appropriates general fund to the MUS in the biennial pay plan bill.

University Funds

In addition to the state funds appropriated by the legislature, the MUS is funded from several other sources, including tuition and fees, federal and private grants, service fees, service operations, and other sources. The university system classifies its revenue and expenditures into various fund types using national accounting standards common to universities and colleges.

State funds appropriated for general operations and tuition are classified as “current unrestricted” funds. This is the university-equivalent of the state general fund. Revenues from state appropriations and tuition constitute the primary revenues for the current unrestricted fund at university educational units. The state funds appropriated to the university system for general operations (i.e. HB 2, pay plan) are deposited to the current unrestricted fund at each unit.

Other fund types include current restricted (federal grants), current designated (course-specific and service fees), current auxiliary (service operations such as dormitories), student loan funds, endowment funds, plant funds, and agency funds (fiduciary).

MUS Budget Approval

The Board of Regents is responsible for establishing the overall budget necessary to fund postsecondary education in Montana; generating sufficient revenues, in addition to state funds authorized by the legislature, to fund the overall budget; and managing the system resources to live within its means. Annually in early fall, the Montana Board of Regents establishes the annual operating budget for all MUS agencies and programs. The operating budget identifies the expenditure level and projected revenues for each university fund.

State statute (17-7-138(2), MCA) authorizes the MUS to expend state funds appropriated in the general appropriations act contingent upon regent approval by October 1 of each fiscal year of a comprehensive operating budget that includes the current unrestricted fund and the other university funds listed above and includes detailed revenue, expenditures, and anticipated fund balances.

Tuition Revenue and Rates

The Board of Regents is the sole authority to set the tuition rates for the MUS. Tuition revenue is not included in the general appropriations act because it is considered private revenue, and therefore, not subject to appropriation by the legislature. Tuition is the single largest revenue source for the MUS education units general operating budget; state funds appropriated by the legislature are the second largest revenue source. The key factors influencing student tuition rates are available state funds and the expenditure level authorized by the Board of Regents.

State Percent Share

The state percent share is that proportion of the current unrestricted fund for the university educational units that is funded by state funds (general fund and six mill levy revenue). In FY 1988 the state percent share of the university educational units’ budget was 74 percent while in FY 2010 the state percent share was about 41 percent. This percentage is important because historically (the 2009 biennium being a recent exception) the actual state percent share level from the base year budget is used to drive state funding levels to support present law programs in the next budget. In the 2009 biennium, the legislature approved the Governor’s College Affordability Plan proposal that funded budget increases based in the proportion of Montana resident students and regional exchange students to total enrollment (about 85 percent) and resulted in zero tuition rate increases for Montana students in FY 2008 and FY 2009.

Funding Issues in the 2011 Legislative Session

Because the projected general fund for the 2013 biennium is anticipated to be less than the revenue available in the current biennium, and because the legislature appropriated one-time funds to the MUS that the legislature may feel pressure to continue into the next biennium, the 2011 legislative session will be facing a significant funding challenge for higher education.

The 2009 Legislature replaced about \$30 million of general fund each year of the 2011 biennium with one-time federal stimulus funds. The “freed up” general fund was reallocated to the MUS and other state agencies. HB 645 amended statute and allows the \$30 million of federal stimulus funds to be considered part of the budget base, and funded from general fund, for the 2013 biennium budget.

The 2009 Legislature also appropriated one-time funds to the Montana University System that the legislature may feel pressure to continue into the next biennium, such as tuition mitigation funding for both the MUS educational units and the community colleges.

The Legislative Finance Committee voted in June 2010 to recommend to the next legislature that the “starting point” for budget discussions in the 2011 legislative session be the adjusted base budget less 5 percent. Compared to the present law budget which adds inflation and other adjustments allowed by law, plus the one-time appropriations that the legislature is likely to feel pressure to continue, the “starting point” for budget discussions for the Montana University System is approximately \$50 million *less* in the 2013 biennium than it received in state funding for the 2011 biennium. The legislature must determine its priority for funding the public postsecondary education system in Montana.

In the event of a reduction in state appropriated funds, the BOR has two primary choices to balance the operating budgets for the educational units: increase tuition and/or reduce expenditures.

Tuition and mandatory fee rates have increased significantly in the past ten years, despite the tuition cap implemented in FY 2008 by the BOR and made possible by increased state funding recommended by the Governor and approved by the 2007 Legislature. In order to balance the budget without a tuition rate increase, the BOR would need to implement expenditure reductions at the educational units, such as increased efficiencies, program and/or function consolidations, program eliminations, and changes in program delivery.

ⁱ Eddy McClure, “The Structure of Higher Education in Montana: Meandering the Murky Line,” Montana Legislative Services Division, Helena, Montana, September 1999, p.2.

ⁱⁱ *Ibid.*, p.5.

ⁱⁱⁱ *Ibid.*, pp. 21-23.



Higher Education Funding in Montana

LFC Education/Local Government
Reference Book Subcommittee
August 17th and 18th, 2010
State Capitol Room 172

Lump Sum Appropriation

- Began in present form with FY 1996 budget
- Biennial appropriation
- Programs included in Lump
 - Board of Regents
 - Office of the Commissioner of Higher Education
 - MUS Educational Units
 - Student Assistance
 - Guaranteed Student Loan Program
 - Other OCHE state level programs
- Programs NOT in Lump
 - Community College Assistance
 - Tribal College Assistance
 - Agricultural Experiment Station, Extension Service, Fire Services Training School, Bureau of Mines, Forestry and Conservation Experiment Station
- Does not include capital projects

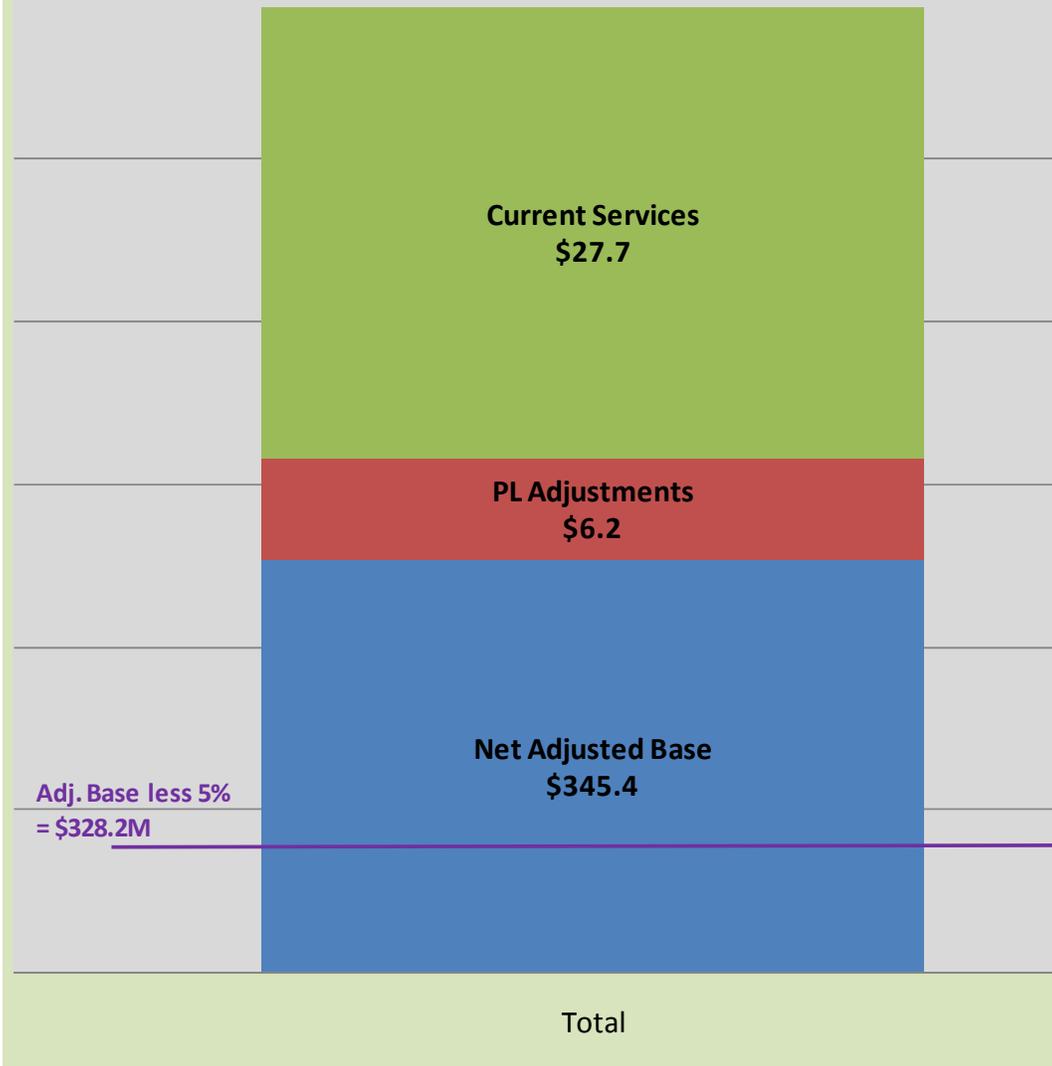
MUS TOTAL FUNDS ED UNITS AND AGENCIES

MONTANA UNIVERSITY SYSTEM			
TOTAL FUNDS EDUCATIONAL UNITS AND AGENCIES			
FY 2010 ORIGINAL OPERATING BUDGET			
		Budgeted FY 2010	Percent of Total Funds
EDUCATION UNITS AND AGENCIES			
	State General Fund⁽¹⁾	\$ 171,643,670	16.5%
	Tuition	218,155,115	20.9%
	Six Mill Statewide Levy	18,318,026	1.8%
	Other	7,804,894	0.7%
	Current Unrestricted General Operating Fund Total	\$ 415,921,705	39.9%
	Current Restricted	231,527,149	22.2%
	Current Designated	151,033,429	14.5%
	Auxiliary Enterprises	113,331,752	10.9%
	Loan & Endowment Funds	556,614	0.1%
	Plant Funds	129,120,434	12.4%
	Total All Funds Ed Units and Agencies	\$ 1,041,491,083	100.0%
Source: FY 2010 Operating Budget, Montana University System			
Notes:			
	(1)	Budgeted FY 2010 state general fund includes \$38.7 million of federal stimulus revenue appropriated in HB 645	

MUS 2013 Biennium Total General Fund Budget

Total \$379.3 Million

An Estimated \$50 Million Budget Gap



The amounts in the graph are estimates. The amounts are based upon the Big Picture Report the LFD produced in March 2010 and used information known at that time. Since March, additional information has become available. When the LFD prepares the Big Picture report in October 2010, it will review the calculations, assumptions, and additional information and update the projected amounts as necessary.

OTO Appropriations to Higher Ed 2011 Biennium Budget

Appropriation Description	Biennial Total
<i>OTO Expenditures</i>	
Distance Learning	\$2,000,000
Virtual Academy	2,000,000
Community College Assistance	1,800,000
Community College-Restore to Gov. Dec 15th Budget	1,277,775
Community Colleges Tuition Mitigation	1,600,875
Tuition Mitigation for Resident Students	5,660,263
MUS Tuition Mitigation and Increased DL Access	12,546,835
Replace 6-Mill Levy Revenue Shortfall	2,493,921
Agricultural Experiment Station - Sawfly Research	500,000
Montana Extension Service - Local Government Centers	300,000
PBS Satellite Delivery	400,000
Tribal College Assistance	900,000
MUS Northern Biodiesel Research	400,000
Total OTO Higher Education Appropriations	<u>\$31,879,669</u>

Tuition Rates-Regional Comparison-4 Yr

Resident UG Tuition & Fees at Public Four-Year Institutions in the WICHE Region						Cumulative Percent Increase		
Source: WICHE FY 2010 Tuition Report, Table 5						2008-09 to	2004-05 to	1999-00 to
State	Institution	2009-10	2008-09	2004-05	1999-00	2009-10	2009-10	2009-10
Montana	Universities	5,667	5,484	4,477	2,966	3.3%	26.6%	91.1%
	Other 4-Yr Institutions	4,827	4,737	4,058	2,760	1.9%	19.0%	74.9%
Other WICHE States	Universities	6,188	5,672	4,124	2,896	9.1%	50.0%	113.7%
	Other 4-Yr Institutions	4,982	4,578	3,364	2,510	8.8%	48.1%	98.5%
MT Higher (Lower) than WICHE States	Universities	(521)	(188)	353	70			
	Other 4-Yr Institutions	(155)	159	694	250			
MT as % of other WICHE States	Universities	91.6%	96.7%	108.6%	102.4%			
	Other 4-Yr Institutions	96.9%	103.5%	120.6%	110.0%			

Tuition Rates-Regional Comparison-2 Yr

In-District Tuition & Fees at Public Two-Year Institutions in the WICHE Region								
Source: WICHE FY 2010 Tuition Report, Table 13								
State	Institution	2009-10	2008-09	2004-05	1999-00	2008-09 to 2009-10	2004-05 to 2009-10	1999-00 to 2009-10
Montana	2-Yr Institutions	3,226	3,162	2,701	2,024	2.0%	19.4%	59.4%
Other WICHE States	2-Yr Institutions	2,753	2,585	1,988	1,523	6.5%	38.5%	80.8%
MT Higher (Lower) than WICHE States		473	577	713	501			
MT as % of other WICHE States		117.2%	122.3%	135.9%	132.9%			