

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 2013 the state percent share was about 34 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 2013 Legislative Session

The executive budget proposes a tuition freeze for the 2015 biennium. However, as discussed in the LFD Budget Analysis, the executive’s plan lacks the formality and substance of the College Affordability Plan forged between the MUS, Governor, and Legislature in the 2007 session. The Montana University System has indicated that there is no agreement at this point, but they are interested in reaching agreement. If it is the desire of the legislature to reach agreement with the MUS and the executive branch to provide a level of funding that allows for a two year tuition freeze, staff strongly recommends that the entire agreement, including funding, expectations, assumptions, and all relevant details be contained in an agreement document and duly noted in the HB 2 narrative accompanying the bill and the LFD Fiscal Report that records the legislative action.

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.

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

**MONTANA UNIVERSITY SYSTEM
 TOTAL FUNDS EDUCATIONAL UNITS AND AGENCIES
 FY 2013 ORIGINAL OPERATING BUDGET**

	Budgeted FY 2013	Percent of Total Funds
EDUCATION UNITS AND AGENCIES		
State General Fund⁽¹⁾	\$ 174,698,704	14.5%
Tuition	276,531,804	22.9%
Six Mill Statewide Levy	19,955,748	1.7%
Other	15,280,789	1.3%
Current Unrestricted General Operating Fund Total	\$ 486,467,045	40.3%
Current Restricted	286,537,545	23.7%
Current Designated	178,228,472	14.8%
Auxiliary Enterprises	123,570,393	10.2%
Loan & Endowment Funds	754,794	0.1%
Plant Funds	131,801,072	10.9%
Total All Funds Ed. Units and Agencies	\$ 1,207,359,321	100.0%

Source: FY 2013 Operating Budget, Montana University System

Notes:

⁽¹⁾ Budgeted FY 2013 state general fund excludes one-time-only and statutory appropriations

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**HISTORICAL FUNDING - EDUCATIONAL UNITS ONLY
MONTANA UNIVERSITY SYSTEM (MUS)
FISCAL YEARS 1988 - 2013 (26 Years of History)**

BUDGETED REVENUE BY SOURCE, BY FISCAL YEAR

Revenue Source	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
GENERAL FUND ^(1,2)	79,224,801	78,394,914	84,051,010	91,125,964	106,843,252	96,418,127	91,575,775	84,320,589	83,648,540	87,966,179	87,464,402	89,087,185	94,922,977	95,844,703	104,849,450	101,347,323
TUITION	28,774,984	28,773,909	32,862,875	34,126,897	36,363,050	48,575,393	56,747,054	68,346,098	81,440,201	89,719,958	100,240,444	109,576,801	108,577,974	112,934,296	120,897,552	147,022,505
SIX-MILL LEVY	12,864,200	13,714,294	12,837,000	12,817,999	12,852,005	14,644,261	12,518,000	14,807,000	15,079,000	13,840,000	13,864,000	14,319,118	14,809,000	15,280,000	11,868,912	12,036,912
OTHER	3,616,136	4,291,643	2,814,464	1,281,955	624,082	630,350	805,886	699,409	764,437	731,686	2,448,861	3,134,954	2,313,795	2,504,907	3,002,673	2,970,384
TOTAL	124,480,121	125,174,760	132,565,349	139,352,815	156,682,389	160,268,131	161,646,715	168,173,096	180,932,178	192,257,823	204,017,707	216,118,058	220,623,746	226,563,906	240,618,587	263,377,124
STATE SUPPORT (General Fund + Six-Mill)	92,089,001	92,109,208	96,888,010	103,943,963	119,695,257	111,062,388	104,093,775	99,127,589	98,727,540	101,806,179	101,328,402	103,406,303	109,731,977	111,124,703	116,718,362	113,384,235
Budgeted Resident FTE Students ⁽³⁾									24,759	25,418	24,477	24,898	24,622	24,871	25,004	25,207
State Support Per Budgeted Resident FTE									3,988	4,005	4,140	4,153	4,457	4,468	4,668	4,498
STATE SUPPORT AS % OF TOTAL	74.0%	73.6%	73.1%	74.6%	76.4%	69.3%	64.4%	59.9%	54.6%	53.0%	49.7%	47.8%	49.7%	49.0%	48.5%	43.1%
Actual Resident FTE Students-Info Only									23,557	24,020	24,323	24,436	24,605	24,851	25,565	26,226

Note: This worksheet includes ongoing funding only; one-time-only funding is excluded

Sources: BOR Operating Budgets (Summary of Funding) FY 1988 - 1995

OCHS Submission to Legislative Audit Division (Cost of Education Historical Summary) FY 1996-2006

2007 - Board of Regents 2007 Biennium Budget Plan (projected)

2008 & 2009 - HB 13, HB 2 (MBARS), HB 63, HB 131 and MUS FY 2008 and FY 2009 Operating Budgets

2010 & 2011 - HB 2, HB 13, HB 645 State Fiscal Stabilization Funds/ARRA, ORP Statutory Appropriation, and MUS FY 2010 and FY 2011 Operating Budgets

2012 & 2013 - HB 2, ORP Statutory Appropriation, and MUS FY 2012 and FY 2013 Operating Budgets

Budgeted Resident FTE Students (LFD Biennial Fiscal Report)

Footnotes:

1) 2010 and 2011 general fund includes federal State Fiscal Stabilization Funds from the American Recovery and Reinvestment Act of 2009 (\$30.95M in FY 10 and \$28.57M in FY 11)

2) 2010 and 2011 general fund reflects Governor's 17-7-140 reductions (\$1.34M in FY 10 and \$1.35M in FY 11)

3) Reflects Resident FTE student enrollment estimate used by the legislature to set the appropriation. "N/A" indicates student enrollment was not a factor used to establish the appropriation.



FINAL 11/30/12

**HISTORICAL FUNDING
MONTANA UNIVERSITY
FISCAL YEARS 1988 - 2013**

Revenue Source	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Average Annual Percentage Change
GENERAL FUND ^(1,2)	107,186,837	101,381,233	111,395,004	112,552,060	125,093,960	138,977,163	133,629,465	131,434,006	133,316,017	132,441,183	2.1%
TUITION	158,086,393	172,721,055	188,215,243	200,726,725	204,832,437	208,516,914	218,155,115	236,364,336	258,695,557	276,531,804	9.5%
SIX-MILL LEVY	12,235,000	12,362,999	13,385,001	13,679,000	17,565,323	16,369,436	18,318,027	17,018,698	18,508,238	19,955,748	1.8%
OTHER	5,946,357	6,355,565	2,558,151	3,545,448	4,138,541	3,681,286	2,915,765	4,572,464	9,895,996	15,280,789	5.9%
TOTAL	283,454,587	292,820,852	315,553,399	330,503,233	351,630,261	367,544,799	373,018,372	389,389,504	420,415,808	444,209,524	5.2%
STATE SUPPORT (General Fund + Six-Mill)	119,421,837	113,744,232	124,780,005	126,231,060	142,659,283	155,346,599	151,947,492	148,452,704	151,824,255	152,396,931	2.0%
Budgeted Resident FTE Students ⁽³⁾	N/A	N/A	26,942	27,175	26,756	26,756	N/A	N/A	N/A	N/A	
State Support Per Budgeted Resident FTE			4,631	4,645	5,332	5,806					
STATE SUPPORT AS % OF TOTAL	42.1%	38.8%	39.5%	38.2%	40.6%	42.3%	40.7%	38.1%	36.1%	34.3%	-3.0%
Actual Resident FTE Students-Info Only	26,828	26,321	26,422	26,298	26,279	26,740	28,398	29,730	29,602		

Note: This worksheet includes only Sources: BOR Operating Budgets (Sum OCHS Submission to Legislative Audit D 2007 - Board of Regents 2007 Biennium 2008 & 2009 - HB 13, HB 2 (MBARS), H 2010 & 2011 - HB 2, HB 13, HB 645 State 2012 & 2013 - HB 2, ORP Statutory Ap Budgeted Resident FTE Students (LFD E

Footnotes:
1) 2010 and 2011 general fund includes
2) 2010 and 2011 general fund reflects
3) Reflects Resident FTE student enroll