

# EDUCATION & LOCAL GOVERNMENT INTERIM COMMITTEE

July 15, 2005

## **What is the Postsecondary Education Policy and Budget Subcommittee (PEPB)?**

The Postsecondary Education Policy and Budget Subcommittee (PEPB) may be convened by the Education and Local Government Committee (ELG) in order to address the statutory duties related to the Montana University System during the interim.

PEPB has been convened each of the past two interims and the major subcommittee projects during each interim included:

- 2001-2002 Interim...PEPB drafted a set of policy goals and accountability measures in order to define the indicators of quality that the legislature is seeking from the Montana University System in return for state funding. These goals and accountability measures were put into an agreement that was signed by both the PEPB legislative members and the Board of Regents
- 2003-2004 Interim...PEPB worked closely with the Governor's Office, the Commissioner of Higher Education, and the Board of Regents to launch and implement the Shared Leadership for a Stronger Montana Economy initiatives. These initiatives were subsequently recommended for state funding in the 2007 biennium. PEPB also renewed and re-signed the accountability measures agreement with the Board of Regents

## **Who serves on the PEPB?**

- 4 Legislators (typically 2 Senators and 2 House members) from the ELG
- 2 Regents from the Montana Board of Regents
- 1 Representative from the Governor's Office
- Ex-Officio Member: Commissioner of Higher Education
- Legislative Staff: Alan Peura, Legislative Fiscal Division  
Eddy McClure, Legislative Services Division (Attorney)

## **What are the issues under consideration by PEPB?**

See attached lists, one submitted by LFD staff Alan Peura, the second by ELG member Senator Bob Hawks, that include recommended work plan issues for PEPB.

The Legislative Finance Committee, at their June 2005 meeting, has requested that PEPB address issue #1 from the Peura list as follows:

- 1) Policy Goals/Accountability Measures adopted by PEPB/BOR last two cycles
  - Develop benchmarks and performance guidelines to measure progress toward these measures
  - Renew agreement with Board of Regents on the content of the accountability measures
  - Investigate converting these to budget formula drivers (for new proposals in 2009 biennium)
  - Submit report to Legislative Finance Committee by September 2006 for consideration of use in the 2009 biennium budget

*(for more information on this, see report titled, Performance Indicators in the Montana University System)*

HB 2 language also requested three reports from the Commissioner of Higher Education to be submitted to the legislature (all were vetoed by the Governor). PEPB may want to consider a review of these reports, in either final or preliminary form, depending upon the required due date. These reports include:

- The status of spending for equipment and tribal history documentation at the tribal community colleges as part of the \$2 million Enhancing Tribal Colleges appropriation – due November 1, 2006
- A plan for how the university system shall implement Indian Education for All Montanans within the educational units – due July 31, 2006
- A report detailing how the university system will establish partnerships with DPHHS, in particular with TANF programs, in order to help Montanans move toward economic self-sufficiency – due January 1, 2007

**When does PEPB meet?**

Assuming sufficient budget authority, PEPB typically meets 5 times during the interim. The following are suggested meeting months proposed with an eye towards a schedule rotation related to the ELG meetings and the Board of Regents meetings:

- October 2005
- December 2005
- February 2006
- April 2006
- July 2006

In the past, PEPB has rotated meeting locations in an attempt to meet on various campuses of the Montana University System. Within this process, PEPB members have had the opportunity to meet university and campus leaders as well as students, and avail themselves of specialized tours and presentations relating to areas of interest.

**Postsecondary Education Policy and Budget Subcommittee**  
**Potential Study Issues 2007 Biennium<sup>1</sup>**

- 1) Policy Goals/Accountability Measures adopted by PEPB/BOR last two cycles
  - Develop benchmarks and performance guidelines to measure progress toward these measures
  - Renew agreement with Board of Regents on the content of the accountability measures
  - Investigate converting these to budget formula drivers (for new proposals in 2009 biennium)
  
- 2) Review current state funding formulas used to establish Montana University System budget
  - State share of the cost of education → drives present law adjustment funding
  - Marginal cost per student formula → drives funding for enrollment increases
  - Cost of education @ community colleges and university units

A. Look at other state funding formula models used to fund higher education
  
- 3) Monitor progress and funding results of Shared Leadership Initiatives (including matching funds)
  
- 4) Monitor implementation of new Governor's Postsecondary Education Scholarship Program
  
- 5) Participate in Board of Regent review and changes to allocation model used by Regents to disburse HB 2 funding to the university educational units
  
- 6) Monitor 2009 biennium budget request and any proposed legislation

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<sup>1</sup> List prepared by Alan Peura, Associate Fiscal Analyst, Legislative Fiscal Division

**Peura, Alan**

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**Subject:** FW: Education and Local Government

As per your request find the following suggestions for discussion on higher education...as submitted by Senator Hawks.

1. What are the most significant barriers to higher education and how can these be reduced or eliminated? (We would expect that cost will be a primary factor, which could lead PEPB to exploring options for increasing the availability of need-based aid.)
2. Strategic Plan for the Montana University System-the Board of Regents will have a retreat in July to begin the development of a new strategic plan for the MUS. It would be important to have the interim committee endorse the priorities and goals that are established as a part of that process. Certainly the priorities developed could generate discussion of the primary mission of educating students and whether appropriate efforts and resources are being devoted to carrying out that mission. The issue of the public good vs the individual gain could also be a focal point of that discussion, in terms of the level of state support that is appropriate.
3. The funding allocation model for the MUS-this model is used by the Regents and the Commissioner's Office to allocate the lump sum funding from the legislature to the various campuses. Work on a new allocation model will be underway as a follow-up to the strategic planning efforts.

Update on the study of comparisons with peer states. The LFA conducted this study after the 1999 session to determine how our costs compared to public university systems in neighboring states. This type of study might be important to conduct on a regular basis (every other biennium, for instance), as this kind of comparison can serve as one indicator of our efficiency within the MUS.
5. Shared Leadership Initiatives-PEPB was involved in this Regents' initiated process of identifying the priority needs and issues in the state, and then developing recommendations for the university system's role in helping to address those needs. These were translated into the MUS new proposal budget requests for the last legislative session. It would be appropriate for PEPB to stay involved in the progress of those efforts and in assessing the return to the state of the funding invested.

6/22/2005

# PERFORMANCE INDICATORS IN THE MONTANA UNIVERSITY SYSTEM

During the 2001-2002 interim, the Postsecondary Budget and Policy Subcommittee (PEPB) of the Education and Local Government Interim Committee developed a series of six policy goals with twelve accompanying accountability measures that would be applied as the indicators of quality performance by the Montana University System. In both 2002 and 2004, the legislative members of PEPB and the Montana Board of Regents signed an agreement committing themselves to these measures, and the Commissioner of Higher Education now submits a bi-annual report to each legislative session that addresses the university system progress towards these accountability measures.

These accountability measures and policy goals include the following:

<i><b>PEPB-Recommended Policy Goals and Accountability Measures</b></i>	
<i><b>Policy Goal</b></i>	<i><b>Accountability Measure</b></i>
1. Prepare students for success through quality education	<ul style="list-style-type: none"> <li>○ Completion Rates</li> <li>○ Retention Rates</li> </ul>
2. Promote access and affordability	Affordability compared to other states <ul style="list-style-type: none"> <li>○ State Support as a percent of personal income and per capita income</li> </ul>
3. Deliver efficient, coordinated services	Transferability among institutions <ul style="list-style-type: none"> <li>○ Percent of expenditures in instruction, administration, athletics, etc.</li> </ul>
4. Be responsive to market and employment needs and opportunities	Job placement rates by field or program <ul style="list-style-type: none"> <li>○ Growth in FTE enrollment, certificates, and degrees conferred in 2-yr education</li> </ul>
5. Contribute to Montana's economic and social success	Research and Development receipts and expenditures <ul style="list-style-type: none"> <li>○ Technology transfers (licensing and commercialization)</li> </ul>
6. Collaborate with the K-12 school system and other postsecondary education systems	Collaborative programs with K-12, Community Colleges, and Tribal Colleges and private colleges (when appropriate). <ul style="list-style-type: none"> <li>○ Average SAT or ACT scores of first time full time MUS freshmen</li> </ul>
Source: <u>Public Postsecondary Education Policy Goals, Accountability Measures &amp; Reporting</u> , prepared for the Education and Local Government Committee and the 58 <sup>th</sup> Legislature, by the Joint Subcommittee on Postsecondary Education Policy and Budget, August 21, 2002	

The potential value of these accountability measures together with the joint commitment by the legislature and the regents is enormous, especially given the split constitutional authority over the university system, which gives governance authority to the regents while preserving state funding appropriation authority for the legislature. With agreement on these accountability measures in place, there is now an outline in place to more specifically define what the State of Montana would like to receive from the university system in return for state funding. And once that funding is appropriated,

the regents will know what performance goals for which they will be held to account to demonstrate the successful outcomes that the legislature is looking for.

Upon this foundation of an agreement about accountability measures, the legislature may want to proceed to build a methodology through which state policy goals that are linked to specific outcome objectives can play a larger role in legislative budget and funding decisions for the university system. In other words, legislative budget decisions could be driven by the degree to which budget decision packages and the program activities considered for funding contribute to progress towards these specific policy goals and accountability measures.

What remains to be completed, however, is identifying the performance benchmarks that would define success in each accountability area. For example, referring to the first policy goal in the figure above, the legislature needs to determine what completion rate and retention rate it would consider to be a successful performance by the university system toward the policy goal to prepare students for success through quality education. Determining these benchmarks would require identifying the current rates that each of the university educational units are operating at, comparing these rates to the accepted industry standards, and setting achievement benchmarks for each.

From that point, budgeting based upon university unit performance can begin.

## **BUDGETING FOR PERFORMANCE AT THE UNIVERSITY EDUCATIONAL UNITS**

A couple of examples, based upon these accountability measures, could serve to demonstrate the methodology upon which the state funding budget could be built based upon performance.

Once again, using Policy Goal #1 and its accountability measures:

<i>Policy Goal</i>	<i>Accountability Measure</i>
1. Prepare students for success through quality education	<ul style="list-style-type: none"> <li>○ Completion Rates</li> <li>○ Retention Rates</li> </ul>

The legislature could, in HB 2, approve new proposal decision package appropriations whereby the university educational units would receive an additional appropriation in the second year of the biennium if they meet or exceed the performance targets for completion rate and retention rate during the first year of the biennium.

- DP 1 – Student Success Through Quality Education – Completion Rate - The legislature appropriates an additional \$\_\_\_ general fund per FTE student during FY 20\_\_ (second year of the biennium), up to a maximum of \$\_\_\_, to each of the university educational units that attains the completion rate performance target of \_\_\_% during the academic year that occurs during FY 20\_\_ (first year of the biennium). This will be a one-time-only (OTO) appropriation.
- DP 2 – Student Success Through Quality Education – Retention Rate - The legislature appropriates an additional \$\_\_\_ general fund per FTE student during FY 20\_\_ (second year of the biennium), up to a maximum of \$\_\_\_, to each of the university educational units that attains the retention rate performance target of \_\_\_% during the academic year that occurs during FY 20\_\_ (first year of the biennium). This will be a one-time-only (OTO) appropriation.

Through these decision packages, the legislature is clearly telling the university system that state funding is intended to purchase student success, as measured by completion and retention rates, and that the university system funding will be affected by their performance in these areas.

A reporting process would then be built into the interim committee workplan to update the progress toward these rates and to document those programs or activities within the university system that drive successful results. Thus we know which activities create success and those are the ones that would be funded going forward.

Another example of performance budgeting, this time using Policy goal #2:

<i>Policy Goal</i>	<i>Accountability Measure</i>
2. Promote access and affordability	Affordability compared to other states <ul style="list-style-type: none"> <li>○ State Support as a percent of personal income and per capita income</li> </ul>

Clearly this policy goal is being measured by the resident tuition rates at the university educational units and the ability for Montana students to afford that tuition and pursue a postsecondary degree in state. Once again, following the same format illustrated in the first example, the legislature could approve decision packages that appropriate additional, incentive funding if the university is able to meet these accountability measures. Given that university tuition rates are set by the Board of Regents at their May meeting just following each legislative session, these accountability measures and the related funding could be applied to both years of the budget biennial period. Thus HB 2 could include a new proposal decision package such as:

- DP 3 – Promote Access and Affordability for Montana Students as Compared to Other States – The legislature approves an annual appropriation of \$\_\_\_ to each of the university system educational units for each year of the biennium that each unit is able to keep tuition rates at or below the mean tuition level among the regional WICHE<sup>1</sup> member universities, up to a maximum of \$\_\_\_. This will be a one-time-only (OTO) appropriation.
- DP 4 – Promote Access and Affordability for Montana Students as Compared to Income – The legislature approves an annual appropriation of \$\_\_\_ to each of the university system educational units for each year of the biennium that each unit is able to keep tuition rates at or below a level that represents \_\_\_ percent of the average personal income level of Montana residents, up to a maximum of \$\_\_\_. This will be a one-time-only (OTO) appropriation.

Once again, before proceeding to craft HB 2 funding based upon these accountability measures, the legislature would need to identify the industry standards of achievement for each of these measures so that genuine achievement benchmarks can be established for each of the university educational units.

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<sup>1</sup> WICHE is the Western Interstate Commission for Higher Education, which is the regional association of postsecondary education institutions that provides a forum for valid comparative data between peer institutions, including comparative tuition data information. WICHE schools include the primary competing higher education institutions to the Montana University System educational units.

As these examples demonstrate, the first steps toward performance budgeting in the university system may best be started by considering funding for new proposals, rather than starting by building the base budget or even present law adjustments from the foundation of these accountability measures.

## **Constitutional Issues**

Would a performance budget system such as this violate the “murky line”<sup>2</sup> of constitutional authority that exists between the legislature and the Montana University System? Specifically, would conditioning appropriations of state funding upon specific accountability measures violate the constitutional separation of authority whereby the Board of Regents has governance authority while the legislature has appropriations power?

Within the Montana constitutional configuration a tension exists between the Board of Regents’ autonomy that comes with governance authority and the power of the legislature through the appropriation of state funds. Through a series of legal decisions, this tension has been reconciled as follows:

- The Montana legislature cannot do indirectly, through fiscal appropriation, what it is not permitted to do directly by the Constitution. In other words, appropriation of state funds cannot be used to blatantly drive MUS governance policy, as governance is the constitutional role of the Board of Regents
- Legislative appropriation power does not extend to private funds received by state government that are restricted by law, trust agreement, or contract, such as student tuition and the other fees listed above
- Legislative appropriation power does, however, allow the legislature to establish requirements of MUS compliance with audit, accounting, and fiscal accountability measures
- The Montana legislature may establish conditions on the appropriated funds and, if the Board of Regents accepts the funds, then it also accepts the conditions

It would appear that the performance budgeting examples above would pass muster under these case law decisions, as the performance objectives have been agreed to by the Board of Regents. Further, the decision packages do not seek to appropriate private revenues (student tuition), nor do these decision packages “drive MUS governance policy” but rather they would reward performance with new funding packages that work toward agreed upon outcomes. Finally, the rewards for performance, additional appropriated funds, could be rejected by the regents if they are not in agreement, so that if the funds are accepted, so are the performance and accountability measures.

## ***Next Steps: A Future Vision for Performance Budgeting in the University System***

Going forward, should the legislature take the first steps toward a performance budget for the university system by starting with new proposal decision packages that are based upon clear policy goals and accountability measures? Subsequent steps could potentially move the entire legislative budget cycle, both the session and the interim, into the process of setting the accountability measures, negotiating the targets with the university system, budgeting around these measures, and then evaluating performance based upon the measures with the next budget targets rolling out from this evaluation.

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<sup>2</sup> For more information about the Constitutional structure and history, see [The Structure of Higher Education in Montana: Meandering the Murky Line](http://leg.state.mt.us/content/publications/services/legal/opinions/regents.pdf), Montana Legislative Services Division, September 1999. Memo available at: <http://leg.state.mt.us/content/publications/services/legal/opinions/regents.pdf>

Under such a budgeting system there would conceivably be a more genuine synergy between the clear policy goals of the legislature, the functions of the university system, and the budget that results from these goals and operations. This synergy could include:

- The appropriate interim committee or subcommittee collaborating with university system officials (regents, commissioner of higher education, presidents and chancellors, etc.) and the executive to come to agreement about the public policy goals, the accountability measures to achieve these, the benchmarks and targets for success, and the programs that move these forward. From this agreement each interim the university system builds its biennial budget together with the executive.
- During the session, the Joint Appropriations Subcommittee on Education would have a clear understanding of objectives that drive the budget during their hearings process, as members would receive a report from the interim legislative committee that includes the agreed upon budget drivers; the accountability measures and the programs identified to achieve these performance objectives. The university system could use these hearings as a means to explain how the proposed budget programs and funding would achieve the agreed upon performance objectives. Legislative decisions could be based upon the degree of confidence that these programs and funding levels demonstrate to bring about success toward the policy goals.
- Following the legislative session, the subsequent interim legislative committee or subcommittee would monitor the achievements of the university system towards the accountability measures and evaluate the success of programs towards these performance indicators built into HB 2. This evaluation and assessment of the present budget and its results leads into the next discussion between the legislature and the university system about the subsequent budget and how to improve upon performance specific to the original accountability measures and goals, or potential refinements to these.

Thus, the performance budget drives policy and creates the common currency to drive state funding as well as the common language to drive state policy for postsecondary education, both during the interim and during the session.

Over the long term, the legislature could also address the budget base and present law adjustment components by deriving these from a formula that would also be based upon the policy goals and accountability measures. This may be done by identifying the specific state percentage share of funding for the cost of education to Montana resident students that the legislature identifies as critical by the state to fund the core capacity of post-secondary education in Montana. That discussion and process, however, might be best deferred until later, after an opportunity to evaluate a pilot process that would base new proposal budgets upon the above described performance based accountability methodology.

## **HOW DO WE PROCEED?**

To proceed with the university system accountability measures component of performance management and budgeting, the LFC may want to consider the extent to which members would like to see the 2009 biennium budget driven in part by these accountability measures. The section above recommends that an initial effort in this direction should start with "New Proposals" in the university section of the budget.

Should the LFC wish to proceed in this manner, the committee may want to communicate with the Postsecondary Education Policy and Budget interim subcommittee (PEPB) and request that PEPB complete the accountability measures by establishing benchmarks and measurable performance

objectives against these benchmarks. PEPB could then report back to the LFC with these benchmarks and a recommendation that prioritizes the accountability measures and confirms a renewal of the agreement with the Board of Regents, so that LFC could then consider using these to drive specific components (“New Proposals”) of the university system budget in the 2009 biennium.

### **Decision Points**

- The LFC may want to consider a request that PEPB complete the university system accountability measures by setting benchmarks and measurable performance objectives for each of the policy goals together with a prioritization of these, and that PEPB seek renewal of the biennial agreement on these measures with the Board of Regents. The LFC may want to request that PEPB provide this information to the committee by September 2006 so that the LFC can consider using these accountability measures in the budget process for the 2009 biennium budget for the university system.