



MONTANA LEGISLATIVE BRANCH

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Legislative Fiscal Analyst
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February 17, 2000

To: Legislative Finance Committee

From: Sandy Whitney, Senior Fiscal Analyst

RE: Postsecondary Education Policy and Budget Subcommittee

At the February 10, 2000 meeting of the Joint Subcommittee on Postsecondary Education Policy and Budget (PEPB):

- (1) Leroy Schramm presented information on a non-resident tuition lawsuit filed against the university system
- (2) Eddy McClure presented information on the college of technology 1.5 mill levy lawsuit filed against the Department of Revenue;
- (3) Sandy Whitney provided reports comparing Montana's university system to those in selected other states; and
- (4) the subcommittee took executive action to recommend that the 2001 Legislature continue lump sum funding for the university system.

Nonresident Tuition Lawsuit - Chief Legal Counsel for the Commissioner of Higher Education, Leroy Schramm, outlined the claims in a nonresident tuition lawsuit against the university system. The three plaintiffs are former nonresident students who established legal residency in Montana, but who were denied resident student status based on a Regents' tuition policy. That policy states that a nonresident cannot establish residency for tuition purposes if the student enrolls for more than six credits per term in the Montana University System. Mr. Schramm outlined the progress of the case to date, emphasizing that the university system has filed a motion to dismiss on technical grounds.

1.5 Mill College of Technology Levy – Eddy McClure presented an update on the lawsuit by two Cascade County taxpayers against the Department of Revenue claiming the 1.5 mill levy in the five counties having colleges of technology was unconstitutional because it violates the equal protection clauses of the United States and Montana Constitutions. The basic argument is that the colleges of technology are now state schools and there is no rational basis for funding these units by a local levy when the other units are funded by a statewide levy. The opposing argument is that those colleges have a separate mission that is geared to the local labor market, which does constitute a rational basis for unequal treatment of taxpayers.

Comparisons of Montana's University System to System in Selected States – Sandy Whitney presented three reports detailing: 1) student, faculty, and funding data for systems in selected states; 2) similar data for Montana peer universities in those states; and 3) the differences and similarities in the governance, budgeting, and appropriations processes. The basic public policies highlighted are those noting Montana has generally lower funding per student, similar

tuition, less state support per student, and marginally competitive faculty salaries, especially in the smaller units. Montana is also the only state that provides a total lump sum budget to the university system, leaving financial management to the discretion of the Board of Regents.

Subcommittee Recommends Continued Lump Sum Funding - Based on these and earlier reports, the Joint Subcommittee on Postsecondary Education Policy and Budget voted to recommend that the 2001 Legislature continue the practice of lump sum funding. This recommendation fulfills the SJR 16 requirement that the committee evaluate the effectiveness of lump sum funding.

Subcommittee to Meet in May - The Subcommittee will meet again on Thursday, May 11, 2000, in Room B7 of the Federal Building.

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