



# MONTANA UNIVERSITY SYSTEM

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## MINUTES Montana Board of Regents Meeting CONFERENCE CALL

These minutes were approved by the Board of Regents at the November 15-16, 2007 meeting in Bozeman, MT.

**Tuesday, October 16, 2007**

**11:00 AM – 1:30 PM**

The meeting convened at 11:00 a.m. by teleconference.

Roll Call indicated a quorum present.

Regents Present: Lynn Hamilton Chair, Steven Barrett Vice Chair, Todd Buchanan, Clayton Christian, Kerra Melvin, Janine Pease, Lila Taylor, and Commissioner of Higher Education Sheila Stearns *ex officio*. Policy Advisor for Education Jan Lombardi represented Governor Schweitzer *ex officio*. Deputy Superintendent of Public Instruction Bud Williams represented Superintendent Linda McCulloch *ex officio*.

Regents Absent: None.

Others Present: President Dennison, Dr. Teresa Branch, Mick Hanson, and Jim Foley, all of The University of Montana-Missoula; Rachel Stagg from U.S. Senator Jon Tester's office; Craig Roloff, Leslie Taylor, and Brandi Payne, all of Montana State University-Bozeman; Mick Robinson, Cathy Swift, Bruce Marks, and Sherry Rosette, all of Commissioner Stearns' office; Alan Peura, legislative staff; Jim Stipcich, Jolene Selby, Lowell Wollitz, Don Oliver, Dennis Doherty, Scott Todorovich, Kelly Chapman, Simon Poole, and Sharon Eslick, all of the Student Assistance Foundation; David Ewer, Jan Lombardi, Ann Brodsky, and Suzan Scott of the Governor's Office; Chuck Johnson of Lee Papers; Gail Schontzler of the Bozeman Chronicle; and Seamus O'Neill, Tom Vander Molen, and Joe Mazurek.

System Issues.

### BOARD DISCUSSION and ACTION

1. ITEM 137-101-C1007: Authority to Apply for Permit for Reserved Channel Non-Commercial Educational Broadcast Station as Established Local Applicant, Montana State University-Bozeman.

Regent Taylor moved approval. Motion passed unanimously.

2. Regents' Role in Student Loan Process

Commissioner Stearns introduced this item as one to provide information about the student loan program and the risks to the board of regents arising from the loan and business obligations of the Guaranteed Student Loan Program (GSL), Student Assistance Foundation (SAF) and Montana Higher Education Student Assistance Corporation (MHESAC). Cathy Swift, Chief Legal Counsel, provided information about: (1) GSL; (2) the Board of Regents' role with regard to MHESAC and SAF; (3) the risks to the state and Board of Regents of MHESAC bond sales; and (4) the changes in the Higher Education Budget Reconciliation

Act of 2007. After each section, the regents and others asked questions and engaged in discussion.

a. The Board of Regents role as a guarantor of federal education loans relative to SAF and MHESAC.

The Board of Regents (BOR), acting through GSL, is the state guaranty agency under the Federal Family Education Loan Program (FFELP), under which the federal government guarantees student loans against default. Up to 99% of these student loans are guaranteed by the federal government; the remaining amount is the obligation of the lender if the student defaults. Neither the State of Montana nor the BOR bears the risk of defaults on student loans.

Virtually any licensed or certified financial institution may be a lender if it meets the requirements of FFELP; MHESAC is the largest lender in Montana. As a guarantor, GSL earns revenue through its agreement with the DOE as well as through the collection of defaulted loans. These earnings are used: (1) in default prevention and default resolution programs; (2) to administer student financial-aid related programs; and (3) for cash grants to campuses for student assistance.

b. The role of MHESAC and SAF

The organization and governance of MHESAC and SAF was discussed and the ways in which GSL is involved with these two nonprofit corporations. GSL is primarily involved with MHESAC through its role as guarantor of student loans. GSL rents office space from SAF and purchases IT services from SAF in accordance with negotiated, written contracts. SAF provides loan counseling services on campus. Three regents sit on each board and the commissioner of higher education and two university system employees act as officers of these corporations.

c. Risks and obligations of the State of Montana and Board of Regents for taxable and non-taxable debt incurred by SAF and MHESAC.

MHESAC sells bonds in order to finance the purchasing of student loans; this is in accordance with its business plan. The earnings from these loans are funneled back into student assistance programs in Montana. Legal counsel for the BOR does not believe that the State of Montana or the BOR has any possibility of becoming obligated on these bonds, either legally or morally. This conclusion is based on state law, the terms of the bonds, and express statements on all the bonds that they do not constitute legal or moral obligations of the state of Montana or the BOR. MHESAC Director Mark Semmens noted that the bonds are asset-backed bonds, clearly limited to the specific security, and being sold to sophisticated institutional buyers who look at bond ratings. He noted that the MHESAC bonds are rated higher than the state of Montana's bonds.

Office of Budget and Program Planning Director David Ewer expressed concerns other than financial risks. The catalyst for his concern was MHESAC's recent proposed taxable bond issue to finance the purchase of \$900M in student loans. He is concerned about risks arising from market reaction to MHESAC's large

