

**THE BOARD OF REGENTS  
OF HIGHER EDUCATION  
Montana University System**

**MINUTES**

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**DATE:** JANUARY 21-22, 1993

**LOCATION:** MONTANA HIGHER EDUCATION BUILDING  
CONFERENCE ROOM  
2500 BROADWAY  
HELENA, MONTANA

**REGENTS PRESENT:** BILL MATHERS (CHAIRMAN), JIM KAZE (VICE CHAIRMAN), TRAVIS BELCHER, PAUL BOYLAN, CORDELL JOHNSON, KERMIT SCHWANKE, AND TOM TOPEL; COMMISSIONER OF HIGHER EDUCATION JOHN HUTCHINSON

**REGENTS ABSENT:** NONE

**PRESIDENTS PRESENT:** BRUCE CARPENTER (EMC), BILL DAEHLING (NMC), GEORGE DENNISON (UM), MIKE MALONE (MSU), AND LINDSAY NORMAN (TECH); PROVOST MIKE EASTON (WMCUM); JUD FLOWER (MCC), HOWARD FRYETT (FVCC), AND DON KETTNER (DCC)

**PRESIDENTS ABSENT:** NONE

**DIRECTORS PRESENT:** JANE BAKER (BUTTE VT), GEORGE BELL (BILLINGS VT), ALEX CAPDEVILLE (HELENA VT), DENNIS LERUM (MISSOULA VT), AND WILLARD WEAVER (GREAT FALLS VT)

**DIRECTORS ABSENT:** NONE

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**THURSDAY, January 21, 1993**

Board of Regents Chairman Bill Mathers called the regular meeting of the Board to order at 1:00 p.m. He said the minutes of the December 10-11, 1992 meeting in Dillon were being prepared and would be approved at the Board's March meeting.

Commissioner of Higher Education John Hutchinson introduced Rose Bond, who replaced Jerry Williams as Assistant to the Commissioner/Secretary to the Board of Regents, effective January 4, 1993.

## MONTANA UNIVERSITY SYSTEM BUDGET DISCUSSION

Chairman Mathers introduced Governor Marc Racicot and thanked him for coming to the Board meeting. Mathers pledged the Board's support and said the members were willing to work with the Governor at all times to resolve any differences.

Governor Racicot thanked the Board for inviting him and said although his status as an ex-officio member carried no voting power, he still felt it was an important part of the process.

The Governor described how the executive budget was prepared, pointing out that Montana's fiscal crisis required a close look at virtually every aspect of state government and all its delivery systems. As a result, his office was obligated to present a proposal for careful examination and scrutiny. He acknowledged it was not flawless in every detail and said it needed to be closely examined, critiqued, and scrutinized.

Governor Racicot said that he and Commissioner Hutchinson had talked, and he realized the initial presentation of his proposal had been felt with harsh impact in some quarters. He said although that was not his intent, the inquiries still had to be made. He was putting the issue before the Board and the legislature and requesting further information and guidance to correct any wrong intuitions. By doing so, the legislature could move ahead and make the necessary value judgments. Governor Racicot assured the Board that his office intended to be available and fully participate fully with the Board throughout the process.

The Governor said all executive branch agencies were subject to continual scrutiny of their operations and, as a matter of fairness and equity and because the people of Montana believed it was the responsible course, the same level of scrutiny was being applied to the higher education budget. He then introduced Budget Director Dave Lewis.

Mr. Lewis distributed several schedules that showed how the six campuses had adjusted their program allocations in comparison to the original appropriation amounts included in House Bill 2. Since the Governor's budget recommended consideration of a lump-sum appropriation, Lewis said it was appropriate to look at how the dollars had been allocated—particularly those since House Bill 2. He said they were also examining the entire issue of administrative dollars and where those dollars were being spent. Lewis said an identical process was being applied to other state agencies and suggested that the University System and the Board of Regents help with the higher education review.

According to Mr. Lewis, the schedules represented some of the information that would be presented to and discussed with the legislative subcommittees. He

said that only \$900,000 of an \$8.5 million net increase had made it into the instruction program—despite the fact that nearly \$5 million came from increased student fees and larger enrollments. Lewis said the lion's share of the funds—\$5.7 million or 68 percent of the increase—went into support programs.

Mr. Lewis said those figures raised questions concerning the viability of the formula used, which would be a key issue as they worked through the budget process. Lewis said he also wanted to work with the Board and stressed that higher education wasn't being singled out but was simply undergoing the same process as the rest of state government.

Chairman Mathers thanked Mr. Lewis for his presentation and assured both Mr. Lewis and the Governor that the Board was there to work with them. Mathers said that in return the Board asked only to be given an opportunity to present its interpretation of what was taking place. He said the Board would respond to Mr. Lewis' figures after the members had a chance to examine them.

Chairman Mathers said it was important to try to determine the differences among the various budget figures being presented. The Board then could work from that point since everyone would be talking about the same number of dollars. Mathers asked Rod Sundsted, Associate Commissioner for Fiscal Affairs, to explain the Board's budget figures.

Mr. Sundsted said he not only wanted to go through the executive budget recommendation and the Board's request, but he also wanted to look at where they were in the legislative process in order to show how the various proposals would affect the University System—particularly the six units. While the Board's figures were fairly close to those of the Budget Office and the LFA (Legislative Fiscal Analyst), Sundsted said the difference was in how the information was examined and portrayed. According to a recent press release from the Governor's Office, the executive budget recommendation showed higher education's funding to be \$1 million more than it was during fiscal years 1992 and 1993. According to Sundsted, the \$1 million figure depended on how it was interpreted.

Mr. Sundsted distributed several schedules that showed Governor Racicot's budget proposal. He pointed out that the schedules excluded budget amendments that were needed because of an extra 1,300 students. The extra tuition from those students was used back in the universities' budgets—about \$5 million in 1992 and \$9.5 million in 1993. Of the \$9.5 million, \$5 million was still included in a budget amendment to be heard in a budget amendment bill before the legislature during the current session. Sundsted said that if those two numbers were included—because the money was or actually will be expended—the executive budget recommendation was about \$13.77 million below anticipated total expenditures in 1992 and 1993.

The second schedule Mr. Sundsted discussed examined the general fund side (the first schedule included all funds). Sundsted said since the budget amendments were excluded, the Board's numbers were virtually identical to those used by the Budget Office and the LFA. The 1993 biennium appropriation versus the 1995 biennium recommendation would lower state support over the biennium—excluding the Commissioner's Office—by about \$33 million.

Mr. Sundsted presented overheads of additional charts to explain how the units would be affected. The charts showed expenditures per student (1) comparing fiscal years 1992 and 1993—actual and appropriated amounts (one scenario included special session reductions and budget amendments, and a second included special session reductions but excluded all budget amendments); (2) for fiscal years 1994 and 1995—LFA current level and Board's request; and (3) for fiscal years 1994 and 1995—executive recommendation and tentative spending targets.

According to Sundsted, what happened between 1992 and 1995 was a general fund decrease of 28.3 percent, a tuition increase of 62.8 percent, and a per-student expenditure total over three years down 4.0 percent—the alarming part of the proposal.

Mr. Sundsted said tentative spending targets were adopted January 20 for the subcommittees, and the University System's target was a \$24 million reduction below the LFA current-level budget. Under that target, the per-student expenditures were still down, although not as much was offset with tuition as under the current executive recommendation.

Regent Tom Topel said one reason for the disagreement between the Governor's Office and the Board was the numbers being discussed and what they meant. He asked whether Mr. Sundsted could meet with Mr. Lewis to come up with an accurate set of numbers.

Mr. Sundsted said the LFA and the Budget Office numbers weren't that different from the Board's. The difference was whether budget amendment expenditures were included or excluded. He said he had talked to Mr. Lewis's deputy director and that they would work out the numbers before they got to the subcommittee.

Chairman Mathers asked Mr. Lewis why the budget amendment figures were excluded.

Mr. Lewis said the LFA's definition of base did not include budget amendment figures.

Mr. Sundsted said he didn't disagree with the figures but said it had to be kept in mind that the numbers didn't include all the actual expenditures. He said

there was no problem as long as that was up front.

Mr. Lewis said that budget amendments were never included in the base for state agencies.

Chairman Mathers asked how the amendments could be included, since the money was already being spent and used.

Mr. Lewis said if they were going to include the amendments in the base, they also should project that revenue forward into the coming biennium. If the fees were available and the enrollments had not dropped, that revenue also should be carried forward.

Chairman Mathers asked Taryn Purdy of the LFA's Office how she handled that particular part of the budget.

Ms. Purdy said they generally were talking about the difference between the base that the legislature would use in looking at expenditures in 1994 and 1995 and the total expenditures as Mr. Lewis stated. When the current level was developed, essentially what was looked at were enrollment and current tuition levels. Therefore, the actual expenditure level during those two years was not used in determining the current level for the 1994-95 biennium.

Governor Racicot said the process was based on the notion that only those appropriations approved by the legislature were appropriate from which to begin considering the base. As a result, any budget amendments approved were not automatically included in the base. The Governor said that every state agency went back to a consideration of that base line approved by the legislature, which was the first fiscal year of the beginning biennium. He pointed out that it was an ages-old method of accounting.

Regent Topel was concerned that Mr. Lewis had stated publicly that under the executive budget the University System would have \$1 million more to spend during the next biennium, which was incorrect. He said they received \$14 million during this biennium that they were legally spending, and that revenue from all sources needed to be considered—not just that appropriated by the legislature. Topel said they couldn't ignore \$14 million legally received and spent simply because it wasn't appropriated by the legislature.

Governor Racicot said that while he wouldn't argue with that logic, it wasn't what was being done by law or with any of the state agencies. He said the same method of analysis was being used for everyone.

Regent Topel said that fine distinction wasn't being told to the public. He said the public thought the executive budget would give the University System \$1 million

more to spend than it had last time, which wasn't true. Topel said when press releases came out, what wasn't mentioned was that fine accounting distinction or the way the legislature appropriates funds. He said it wasn't being taken into account that last biennium \$13 million was available to the University System that wouldn't be this time.

Mr. Lewis said he thought they should work with the schedule prepared by the LFA, which was something commonly accepted as far as comparisons.

Regent Topel said the schedule addressed only one funding source—which was the problem. They weren't going to have the source available to them during the next biennium that they had this time. Because of that, the complete story couldn't be told.

Chairman Mathers asked Mr. Lewis if he had a problem with including the \$13 million.

Mr. Lewis said that also including the proper revenue would show a reasonable comparison. He pointed out, however, that he wasn't convinced all the revenue presented was projected out to 1994 and 1995 and that he would need to do some more research.

Regent Topel asked whether there was consensus that for comparison purposes it was proper to include actual expenditures from all sources and make sure that when revenue was projected for the forthcoming biennium proper tuition figures and proper numbers of students would be used. He said if they could reach a consensus on that, they could go ahead and make their comparisons.

Mr. Lewis said they would have to add in the budget amendments and make sure that all tuition was recognized.

Regent Jim Kaze said the figures needed to be portrayed in the same light each time. He said they could live with comparing actual expenditures to actual expenditures, and appropriated expenditures to appropriated expenditures. He said he also was concerned with the public's perception that the University System had a \$1 million increase.

Governor Racicot said he wanted to deal with the same facts and figures and then make the necessary value judgments. He said they had to recognize, however, that the historical and legal approaches toward these budgets were precisely what had been prepared by the LFA and the Budget Office. The budget expenditures approved as budget amendments were not automatically presumed to be part of a legitimate base.

Regent Topel said his main problem was with Mr. Lewis's press release saying the University System would have \$1 million more to spend. The article didn't mention he was talking about one source and that he ignored the \$13 million from other sources that was legally received and spent.

Regent Kaze said he understood what the Governor was saying but wasn't sure the public did.

Governor Racicot said that's why the Board meeting was vitally important and why they were more than willing to handle the scrutiny and careful close examination and have the opportunity to correct any incorrect presumptions.

Regent Cordell Johnson suggested that the Board's staff, the LFA staff, and Dave Lewis meet to decide exactly what numbers they were talking about. He said they could then go forward with the legislative process, and whatever appropriation they ended up with would at least have been based on an agreed-upon set of starting figures.

Chairman Mathers asked Rod Sundsted, Dave Lewis, and Taryn Purdy to get together and come back with a set of figures upon which everyone agreed.

Chairman Mathers said because the Board had been asked to respond to the Governor's budget and how the Board would make cuts, a special meeting would be held during February for that purpose.

Governor Racicot said he wanted to add that all parties involved in these debates would have to show a great deal of restraint and discipline. He said his office would try to make sure that issues were dealt with personally instead of through press releases. The Governor said they would be meeting to establish a new set of figures and would report back at the February meeting.

Northern Montana College President Bill Daehling said he wanted to go on record concerning the first handout distributed by Dave Lewis. He pointed out some errors in the portion concerning distribution of the pay plan, which showed that none of the pay plan went to the instructional part of the budget. President Daehling said that was erroneous.

Commissioner Hutchinson suggested that the presidents not go through a point-by-point critique of the figures at that time but instead have their fiscal people examine the numbers and provide any changes or justifications.

Montana State University President Mike Malone said it would be helpful to pursue another theme in the war of press releases—the definition of an administrator.

Chairman Mathers said that would be part of a brief presentation Commissioner Hutchinson wanted to make to the Board.

Commissioner Hutchinson said he wanted to respond to some key issues in Governor's Racicot's amendment to the executive budget.

1. Reorganization was necessary and would save money.

Commissioner Hutchinson said everyone probably agreed that some savings might be derived from either some centralization or decentralization, and he said they would be looking at that. Concerning mergers, however, he said Montana only saved about \$25,000 from merging Western Montana College with the University of Montana. While academic and service affiliations could make some mergers meaningful, he said the University System's experience has shown that mergers don't save much money. Prevailing national evidence also shows that merging public institutions does not save money.

2. The number of administrators was too high compared to faculty (1:4).

Commissioner Hutchinson said this category likely included both administrators and other contract professionals. To help distinguish between administrators and contract professionals, Hutchinson said they prepared several definitions.

- a. An administrator was defined as

*[a] Board of Regents contract employee who directs a program and staff. Titles for these positions are generally president, vice-president, dean, or director, including assistants, associates, etc.*

- b. A contract professional was defined as

*[a] Board of Regents contract employee that does not have administrative responsibilities but instead supports student- and academic-related programs. Generally, advisors, counselors, curators, coaches, librarians, technical writers, interns, trainers, etc., are not considered administrators.*

After coming up with these definitions, Hutchinson said his staff went through personnel files to find out how many employees fit within the two categories. Of 3,415.43 employees, 195.36 were considered to be administrators—for a faculty/administration ratio of 8:1. When comparing faculty to academic administration, the ratio became 34.63:1, and the ratio of FTE employees to administration was 16.48:1. Hutchinson also said that an



administrative study was underway to help the University System determine whether some efficiencies could be gained in the administration area.

3. There had been an unwarranted increase in administrative salaries within the Commissioner's Office.

Commissioner Hutchinson presented data showing that the salaries of Montana's Commissioner of Higher Education and his staff fell well below the national average. Even regional salaries—including Idaho, North and South Dakota, Nevada, Utah, Arizona, Alaska, Oregon, and Montana—showed that only Idaho ranked below Montana. Hutchinson pointed out that people needed to keep in mind that the salaries were driven by national market pressures.

Governor Racicot said the definition of administrator they used came from the U.S Department of Education. In reference to the salaries in the Commissioner's Office, he said they looked at all the salaries of administrators who earned a certain amount. More administrators within the University System (3,700 employees) earned more than \$50,000 than in the rest of state government (11,000 employees). The Governor said that required a closer look at salaries.

Regent Johnson said he had participated on search committees for high-level executives in the University System. He pointed out that the profession was market-driven and that getting the best people required them to compete in a national market and pay those salaries.

Governor Racicot said he understood that. From his discussions with people in Montana, however, he said they had to realize that cultural gaps sometimes existed between those who serve the people and the people themselves. He said they needed to offer people cogent explanations for those types of issues and said that the inquiry—which wasn't unreasonable—was made because of the disparity in administrative salaries between the University System and the rest of state government.

Discussion from Presidents Lindsay Norman, George Dennison, Mike Malone, and Bruce Carpenter from Montana Tech, the University of Montana, Montana State University, and Eastern Montana College, respectively, and Provost Mike Easton from Western Montana College focused on the misleading way that budget statistics and figures were being presented and interpreted; system accounting changes; the way items were categorized; and exclusions of categories that showed decreases instead of increases. Each president pointed out these types of discrepancies as they applied to his institution.

Governor Racicot said he wanted to make several points before he left the meeting. He said he and his staff didn't see the Board as an enemy. For example,

they demonstrated a clear commitment to lump-sum funding because they believe in the management ability of the people employed and the discretion of the Board of Regents. The Governor said they didn't want to interfere with or usurp indirect costs from the federal grant process and had endorsed special projects that dealt with keeping universities on the cutting edge. He said the Board shouldn't be overly sensitive about the questions being asked and pointed out that his staff was firmly committed to making inquiries even though it might make some people uncomfortable. In closing, he said the meeting had been a learning process and he believed they had made some progress.

Regents Johnson and Topel emphasized again that the questions being asked weren't the issue but only the manner in which they were being asked. Regent Topel asked that the Board be given the opportunity to respond to any questions before they were presented as conclusions.

Chairman Mathers thanked Governor Racicot and Dave Lewis for attending the meeting and invited them to the Board's special meeting in February.

Chairman Mathers called for a 10-minute break. After the Board reconvened, he said they would continue the budget discussion. He postponed the Consent Agenda items and committee meetings until the following day.

Chairman Mathers introduced Representative Royal Johnson from Billings, chairman of the Education Subcommittee that would handle the University System's budget requests.

Commissioner Hutchinson said the Board needed to decide how to respond to several specific requests.

1. The Governor's amendment to the executive budget requested that the Board decide—by the 60th legislative day, or mid-March—how it would trim \$25 million from the University System.
2. Representative Royal Johnson asked that the Board provide a cost estimate of several recommendations in the Governor's amendment—e.g., mergers of units, discontinuation of the Commissioner's Office, placing all vo-techs at Northern Montana College, examination of graduate studies.
3. The Board needed to provide a priority list of the University System's programs to the Budget Office.

Commissioner Hutchinson said those requests had to be prepared in time for the Board's special meeting in February and then for Representative Johnson's subcommittee.

Chairman Mathers asked how the Board members wanted to proceed in responding to the requests.

Regent Johnson said that during the June 1991 meeting, the Board went on record as unanimously opting for quality if a choice had to be made between access and quality. He said they may be faced with restricting enrollments so that the available money could be used to provide a reasonable level of quality.

Chairman Mathers said he would like to see the staff take the overall budget, work with the University System's fiscal officers, and present the Board with a proposal before the February meeting showing how expenditures could be reduced by \$25 million while at the same time protecting the quality of education.

The discussion that followed focused on instructional cuts, limiting enrollments, program cuts and eliminations, student-faculty ratios, short-term versus long-term solutions, overflow from the six units being absorbed by community colleges, tuition indexing, and limiting non-residents the same as residents.

Commissioner Hutchinson said the presidents' points were well taken concerning their common opinion that the big source of a cut would come in the instructional program, which would mean a reduction in access. He said he didn't think it would be wise for the Board to take the entire cut from the instructional side, however. The people in Montana, the Governor, and many members of the legislature didn't expect a \$25 million cut to come strictly from access reduction. All expenditure areas needed to be examined.

Chairman Mathers asked Representative Johnson if he had any comments.

Representative Johnson said he was concerned about the situation and thought it was important to look at it the way it had been discussed in the committees and by the legislators. Johnson said if they approached it in a cooperative manner, it wouldn't have to be settled late on the last day of the session. He thanked the Board for its work and stressed that they all had to continue to work together.

Commissioner Hutchinson said he would present the Board with a menu of options they could possibly take to meet the \$25 million cut. He said the options wouldn't be prioritized and shouldn't be considered as recommendations—but instead as possible ways to reach the reduction throughout the course of the next biennium. According to Hutchinson, reductions in access and direct cuts to the campuses would be included, along with exploring the possibility of shifting some of the burden to the community colleges. The options the Board selected would serve as the University System's response to the Governor and to the legislative subcommittee.

Chairman Mathers said the Board would meet in executive session the next day (Friday, January 22) at 8:30 a.m. and begin the regular meeting at 9:00 a.m.

Commissioner Hutchinson announced that everyone was invited to a reception at his house beginning at 5:30 p.m.

The Board recessed at 4:20 p.m.

### FRIDAY, JANUARY 22, 1993

Chairman Mathers reconvened the regular Board meeting at 9:00 a.m.

### COLLECTIVE BARGAINING

Sue Hill, Director of Labor Relations and Personnel, presented a brief report on collective bargaining. Because negotiations were approaching, Ms. Hill asked for direction on two issues: a general position to take regarding openers, and initial positions regarding salary negotiations. Chairman Mathers told her to continue with a conservative approach and report back to the Board once negotiations got underway.

### CONSENT AGENDA

Regent Belcher moved that the items on the Consent Agenda be approved, with the exception of Item 78-500-R0193—Staff; Montana College of Mineral Science and Technology [withdrawn January 14, 1993, after agenda material was mailed]. The motion passed unanimously.

The following Staff Items were approved:

Item 78-100-R0193 - Staff; University of Montana

Item 78-200-R0193 - Staff; Montana State University

Item 78-300-R0193 - Staff; Agricultural Experiment Station

Item 78-400-R0193 - Staff; Extension Service

Item 78-600-R0193 - Staff; Western Montana College of the University of Montana

Item 78-700-R0193 - Staff; Eastern Montana College

Item 78-800-R0193 - Staff; Northern Montana College

Item 78-900-R0193 - Staff; Office of the Commissioner of Higher Education

Item 78-7500-R0193 - Staff; Billings Vocational-Technical Center

Item 78-9000-R0193 - Staff; Helena Vocational-Technical Center

Item 78-9500-R0193 - Staff; Missoula Vocational-Technical Center

The following Capital Construction Item was approved:

Item 78-202-R0193 - Authorization for Montana State University to transfer ownership of the MSU Extension Service quonset (Serial Number 229341) located in Scobey, Montana, to Daniels County

The Board recessed for concurrent committee meetings and reconvened at 10:20 a.m.

## OLD BUSINESS

Chairman Mathers introduced Denis Curry from MGT of America.

Mr. Curry said he was the project manager for MGT, the firm selected to conduct the management study of the Montana University System's administrative structure and expenses, including the six units, the five vo-techs, the three community colleges, and the Commissioner's Office. He said his company had reached the point in the study where an interim report was to be provided.

Mr. Curry said that MGT team members had visited every campus the week before to talk with as many individuals as possible. His brief report to the Board would show what MGT had been doing, where they were, and where they would be going—along with some preliminary observations. Mr. Curry distributed a handout that outlined the management study's nature, components, and preliminary observations. He said they hoped to have a final report ready before the first of March.

Chairman Mathers thanked Mr. Curry for his report.

## COMMITTEE REPORTS

### 1. ACADEMIC AND STUDENT AFFAIRS COMMITTEE

#### a. Announcements

Regent Kaze, committee chairman, said that three programmatic Level I changes from Eastern Montana College, Montana Tech, and Miles Community College had been administratively approved and required no action by the Board. Referring to the committee's agenda, Item IB was changed from "Implement new minor . . ." to "Implement new orientation or emphasis . . ."

b. Notices of Intent

Regent Kaze said these items were included to bring to the Board's attention any new programmatic offerings that might be coming up through the pipeline. If the Board had any reason to discourage the campuses, it should do so at this level to prevent time being wasted on developing the programs further.

Kaze said these agenda items would be accepted as Level II changes instead of Level III changes. They wouldn't receive extensive review by the Board at that time but would be brought back through the submission/action agenda. Notices of intent were received from Montana Tech, Miles Community College, Butte Vo-Tech (2), and Helena Vo-Tech.

c. Northern Montana College's Role and Scope Statement - Action Item

Regent Kaze said this item was on submission at December's meeting and should have been included on January's agenda as an action item. The changes requested by Northern Montana College in its role and scope statement primarily concerned eliminating references to "middle technology."

Northern Montana College President Bill Daehling said there wasn't too much difference in comparison to the role and scope statement approved by the Board during late 1989 or 1990. He said the proposed statement was better organized and—under the program emphasis area—better focused the institution. President Daehling discussed the institution's programmatic emphasis and continuing development and said the revised statement would provide better overall direction for the college.

Regent Kaze said he understood there was no objection from the Commissioner's Office or the campuses to Northern's revised role and scope statement.

**Regent Kaze moved that Item 78-801-R0193 - Northern Montana College's Revised Role and Scope Statement [number assigned after meeting] be approved. The motion passed unanimously.**

d. Articulation Equivalency Guide

Regent Kaze said the *Guide to the Articulation of Equivalent Courses for Transfer between Montana's Public Community Colleges and Individual Units of the Montana University System* represented the cumulative work of identifying courses within the community colleges that would transfer to the University System's six units. He said it was the next step toward developing an overall, comprehensive guide for transfer and articulation throughout the post-

secondary system. Regent Kaze said that Dr. Sonia Cowen, Dr. David Toppen, and their staff deserved a pat on the back for their work.

Regent Johnson said the document represented a remarkable achievement and that it would answer numerous questions he receives about transferring credits to one of the four-year units. He also commended Dr. Cowen and Dr. Toppen for their work, that of their staff, and that of the campuses.

e. Commitment to Quality

Regent Kaze said that some of the campuses, faculty organizations, and administrators had wanted the opportunity to react or respond to the Commitment to Quality document adopted by the Board during its December 1992 meeting. He said academic officers from the six senior institutions and one community college offered comments. These included (1) concerns from faculty that the results of the effort that would have to be expended for record-keeping wouldn't provide much of a return; (2) concerns about the residency policy for campuses with graduate-level courses; (3) concerns about whether the program review being requested through Commitment to Quality would be meaningful and worthwhile; (4) strong suggestions that details needed to be worked out concerning retention and suspension standards throughout the system; (5) questions about whether a higher voucher cap should be put into place for certain unique courses and offerings throughout the system; (6) reporting requirements; (7) admission requirements with a potential to create the two-level system within higher education in Montana; (8) tuition indexing; and (9) the need for flexibility in the WUE program. The committee listened to the concerns and agreed to bring them before the Board.

f. Great Falls Higher Education Committee

Regent Kaze said this item would be postponed until the March meeting.

2. **ADMINISTRATIVE COMMITTEE**

a. Item 20-002-R0478 - Leave Without Pay; Montana University System - Submission Item

b. Item 63-7005-R0589 - Parental Leave; Vo-Tech System - Submission Item

Chairman Mathers explained these two items and said they would be placed on the action agenda at the Board's March meeting.

c. Item 26-016-R0380 - Employment Contracts - Action Item

Chairman Mathers said the word "or" would be added to this policy so that the Commissioner and the respective college president would not both have to sign employment contracts; the president's signature would be sufficient.

d. Item 43-004-R0484 - Parental Leave; Montana University System - Action Item

Chairman Mathers said this change would add parental leave to the Board's leave policy for the University System. He said it was mandated by federal law and by state law.

e. Item 78-101-R0193 - Sale of a Portion of Fort Missoula Property by the University of Montana Foundation for Scholarship Purposes - Action Item

Chairman Mathers said University of Montana President George Dennison asked that this item be tabled until the March meeting because some final solutions concerning the sale were still being worked out. The item would remain on the Administrative Committee's action agenda until the March meeting.

f. Item 78-103-R0193 - Authority Only Projects; University of Montana - Action Item

President Dennison said that funds for the authority only projects would come from equipment fees, private sources, donations, etc. He pointed out that the projects were "authority only" and they would be withdrawn if the Board did not approve them. He said they came up last spring when they put together the long-range building program.

Chairman Mathers called for a five-minute recess before the Board proceeded any further. The Board reconvened at 11:00 a.m.

President Dennison said he wanted to withdraw Item 78-103-R0193 - Authority Only Projects; University of Montana to discuss it further with the staff.

g. Item 78-203-R0193 - Authorization to Request a Joint Resolution from the 53rd Legislature to Design, Construct, and Finance a Cogeneration Project at Montana State University - Action Item [Addition to agenda]



Montana State University President Mike Malone said they were planning to re-do the steam generation plant at MSU. He said the plant's oldest parts were 70 years old, the oldest boilers were 40 years old, and the plant was in danger of massive failure—it had failed twice during the past nine months although they were able to repair it. President Malone said they were seeking the authority to issue revenue bonds in the amount of \$5.5 million to replace the system of boilers and natural gas firing mechanisms, install new turbines, and completely re-do the steam system. He said the project also would generate a base level of electricity—they were doing some cogeneration at the present time. The system would be able to handle all but peak loads of electricity in the future and would be more environmentally friendly than the antiquated system now in place.

MSU's Physical Plant Director Bill Rose explained to the Board how the system would operate by showing an "MSU Cogeneration Cycle Diagram." He said they were anticipating savings of about \$500,000 a year with the new project.

Chairman Mathers said that MSU just wanted the authority to go ahead and have the project introduced in the legislature. If the legislature approves it, they would be able to go forward. They would look into financing and meet with Chief Legal Counsel LeRoy Schramm to ensure sound financing for selling bonds.

Concerning Item 20-016-R0380, Employment Contracts, Regent Topel said an ambiguity in the second paragraph should be clarified. Since the paragraph discusses notice provisions and years of employment, Topel said he had several concerns. (1) If someone were a classified employee and then came in under a Regents contract, would all years of employment within the system be considered—or just the years of employment as a contract employee? (2) When looking at years of employment, there would be different dates because classified employees begin at various times throughout the year. Topel said there would be some benefit for the system to have uniform times for giving notices rather than having to look at each particular employee's date of employment or date of first contract.

Regent Topel suggested changing the wording so there would be no question that they were dealing with contract dates rather than years of employment within the system, and they would have uniform dates throughout the system for giving notices. He suggested omitting the words "year(s) of employment" and replacing them with the word "contract."

Chief Legal Counsel LeRoy Schramm said he had talked to some of the campuses about this problem. Some of them asked whether they had to offer a Regents contract for a full year. Schramm said they could offer a Regents

contract for six months, three months, etc. He said if the language were changed, that would not present a very attractive option. For example, if they gave three six-month contracts, a person would have a six-month notice requirement after a year and a half instead of after the third year of employment. Schramm said although he didn't really have a problem with changing the language, it might be a case of solving a problem where there really wasn't a problem.

Regent Topel said his concerns were known and suggested postponing the question for now. Schramm said it could be put on the submission agenda for a future meeting.

**Regent Paul Boylan moved that Items 26-016-R0380, 43-004-R0484, and 78-203-R0193 be approved. The motion passed unanimously.**

### 3. BUDGET COMMITTEE

Regent Topel, committee chairman, said he was called away during most of the meeting and that Regent Kermit Schwanke would give the report in his place.

- a. Item 78-102-R0193 - Student Equipment Fee Allocations, University of Montana - Action Item
- b. Item 78-201-R0193 - Authorization to Expend Equipment Fee Allocation for Instructional Purposes, Montana State University - Action Item
- c. Item 78-301-R0193 - Budget Amendment, Agricultural Experiment Station - Action Item
- d. Item 78-7001-R0193 - Fee Refund Schedule, Montana Vocational Technical System - Action Item

Regent Schwanke said this item was withdrawn.

- e. Item 78-8001-R0193 - Butte Vo-Tech Supplemental - Action Item
- f. Item 78-001-R0193 - Non-resident Summer Session Fees - Submission Item

Regent Schwanke said this item would be placed on the action agenda at the March meeting.

**Regent Schwanke moved that Items 78-102-R0193, 78-201-R0193, 78-301-R0193, and 78-8001-R0193 be approved. The motion passed unanimously.**

Regent Topel said he wanted to publicly express his appreciation to the fiscal staff and the fiscal officers for all the cooperation and hard work they've given the Board during his service on the Budget Committee. He also thanked the rest of the people in the Commissioner's Office and all the University System units. He said serving on the Board had been an enjoyable experience.

## **NEW BUSINESS**

### **a. Phillips County Local Government Severance Tax Suit**

Chief Legal Counsel LeRoy Schramm said they were being sued by Phillips County and that the county's suit probably would be followed by others from about a dozen oil and gas producing counties. He said they were a co-defendant with the Office of Public Instruction and wanted to ask the Board for permission to hire outside legal counsel in conjunction with the OPI.

According to Schramm, until 1991 the state's oil and gas producers paid a county-by-county net proceeds tax, which was treated as a property tax. The Department of Revenue came up with a unit value, and the proceeds from that tax found its way into the 6-mill levy. A section of law was changed and, instead of a county-by-county net proceeds tax, a local government severance tax was passed. Included in the law was language stating that the proceeds of this tax were to be reserved for the exclusive use and benefit of local governments.

Schramm said that OPI and the Department of Revenue were saying that because this tax was just meant as a replacement for the net proceeds tax, the proceeds from the local government severance tax should still flow to the 6-mill levy. This would amount to between \$1 and \$2 million a year for the System and about \$8 or \$9 million a year for the School Foundation Program. According to Phillips County, none of that money can flow to state entities—which was the basis of the lawsuit.

Schramm said because of the issue's complexity, OPI suggested hiring outside legal counsel. He said arrangements for joint representation had been made with Michael Garrity of Bozeman, former counsel for the Department of Revenue. Mr. Garrity's services are expected to cost a maximum of \$48,000. OPI will pay 75 percent, and—contingent on Board approval—the System will pay 25 percent. He asked the Board for permission to have the Commissioner sign the contract for legal counsel along with OPI and said they would work

with the fiscal people to allocate the costs equitably.

Regent Johnson said that while he didn't have any problem with the 3 to 1 ratio for the attorney's fee and that \$48,000 sounded reasonable, he would be more comfortable with a fixed rather than hourly fee.

Schramm said that OPI had already done the negotiating and agreed to pay the attorney on an hourly basis. He said it may be difficult at that point to change the arrangements.

After a brief discussion, Regent Johnson moved that the Board authorize Commissioner Hutchinson to sign a contract with the Office of Public Instruction to pay \$12,000 of the \$48,000 cost for the attorney hired by OPI to litigate the Phillips County lawsuit. The motion passed unanimously.

b. Insurance Report

Referring to the LFA's analysis of the Commissioner's Office budget—specifically concerning the Group Insurance Program—Commissioner Hutchinson said language was included that indicated the program had a solvency problem. Hutchinson said the language potentially could create some alarm—not only among Board members but also among University System employees. Hutchinson said the picture was not nearly as bleak as it had been portrayed. He said that Dave Evenson, Director of Benefits, was prepared to address the issue, or it could be postponed until a future meeting.

The Board decided that the issue needed no further discussion.

c. Update - Minority Achievement Plans (UM, MSU, EMC, WMC, NMC, Tech)

Chairman Mathers said this update would be postponed until the March meeting.

## STUDENT REPORTS

Montana Associated Students (MAS) representative Jodie Farmer said the students had been working with Governor Racicot on a proposal to designate MAS as the nominating committee for the student regent. She said the Governor had indicated he would agree to that proposal. Ms. Farmer said they would begin soliciting applications on the campuses during February and submit names to the Governor by the first week of April so that Travis Belcher, current student regent,

could work with the new person before Belcher's term expires in June 1993. She said the students had thanked the Governor for coming to the Board meeting, and they wanted the Board to know how important it was that the Governor exercise his ex-officio role.

Ms. Farmer pointed out that because of past budget cuts the University System has been reduced to a "bare-bones" system. She said they couldn't afford to take a lot more cuts and that on-campus evaluations were underway to try to determine areas for more cost-effectiveness and efficiency. Ms. Farmer said the students were paying more for less and hoped that any more cuts wouldn't jeopardize their future. She also referred to a Board policy that went into effect October 1985, stating that "Student government leaders will receive information on these types of increases at the same time that the Board of Regents does."

Ms. Farmer said the students wanted to thank Regent Topel for the time and effort he devoted to the Board, and she presented him with a card.

Regent Belcher asked whether the agreement worked out with Governor Racicot meant that the only people the Governor could consider for student regent were those that MAS decided were okay for him to consider.

Ms. Farmer said that according to the constitution, the Governor could appoint whomever he wanted. She said the Governor told them, however, that he would give the names on their list priority. Ms. Farmer said the policy would be forwarded to the Board when the students received it.

## COMMISSIONER'S REPORT

### a. Special Meeting

Commissioner Hutchinson said the special Board meeting to discuss budget issues would be held Monday, February 15—President's Day—at 9:30 a.m. in the Higher Education Building in Helena. The meeting would be a single-purpose meeting to review options for reaching a \$24 million budget cut.

### b. March Meeting Date

Commissioner Hutchinson announced that the Board's next regular meeting would be held March 22-23 in Helena instead of Kalispell.

c. Regent Topel's Replacement

Concerning Regent Topel's replacement, Commissioner Hutchinson said that if the Governor had not appointed a replacement by the February meeting, history dictated that Topel would be included in the meeting.

d. Changing Committee Structure

Commissioner Hutchinson said in reviewing the Board's committee structure, suggestions had been made—primarily from the presidents—that the Budget and Administrative committees be combined into one committee. The Board agreed and asked that the March agenda be prepared with that change in mind.

e. Accountancy

Concerning the accountancy issue, Commissioner Hutchinson said that by 1997, students qualified to sit for the Licensed Public Accountancy exam or the Certified Public Accountancy exam must have completed 150 semester hours of work. In 1989, an agreement was made with MSU, UM, and EMC to award degrees in accounting such that at the end of 150 hours, all institutions would award bachelor degrees. The UM, which has exclusive authority in the master's degree area, would have to prepare a master's degree beyond 150 hours. Hutchinson said what they were finding throughout the country, however, was that many institutions were awarding master's degrees at the end of 150 hours. He said that placed EMC and MSU at a disadvantage and they obviously were interested in the possibility of a master's degree for their institutions at the end of 150 hours, which in turn encroached on the mission of exclusive graduate training in business at UM.

Commissioner Hutchinson said they had just issued a temporary solution to go ahead and reaffirm their existing memorandum of understanding with the understanding that all three institutions will submit their bachelor's degree programs for review by the Board, and the UM will submit its master's of accountancy. He said the Board needed to examine this question at the June meeting, and it would be scheduled accordingly. Hutchinson said he had talked with the presidents and they were amenable to that action.

f. Unintroduced Legislative Bill

Commissioner Hutchinson distributed copies of an un-introduced legislative bill—LC 1362/01—that concerned higher education and the Board of Regents.

Chief Legal Counsel LeRoy Schramm said the bill would amend the constitution by adding to the Board of Regents' section a clause stating:

*A board created under this section may not act in a manner that obligates the expenditure of public funds unless the board's actions are approved and funded by the legislature.*

Schramm said the effect of this section was to negate the preceding section that grants powers to the Board of Regents. He pointed out that the definition of public funds was an incredibly broad one—public funds weren't the same as general funds. Public funds included, for example, fees raised by student governments, funds from tickets sold at football games, dorm revenue, revenue from selling hamburgers in the Student Union Building, etc. Schramm said that even when a private gift was received by the University System, that gift became a public fund. He said the bill was trying to restrict the System from receiving gifts that later would impose a general fund obligation.

Regent Johnson referred to a section on the first page of the bill that read:

*The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, . . .*

Regent Johnson said the word "full" had been deleted.

Regent Topel said the bill included wording that would go on the ballot, and that the wording as written did not reflect the change that would restrict the board's full power. If that change wasn't included in the wording, the bill could be challenged in court.

Commissioner Hutchinson said his office would be tracking the bill.

## CAMPUS REPORTS

MSU President Mike Malone distributed a booklet titled *Montana Taxation and Expenditures: Trends and Comparisons*, a new Extension Service publication.

President Malone also distributed a press release from Senator Conrad Burns' Office announcing the \$750,000 Challenge Grant MSU received from the National Endowment for the Humanities.

Regent Topel said he wanted to thank the students for their comments and the card and certainly meant to include them when he gave his unprepared remarks. He said he enjoyed working with the students and appreciated their input. He said the Board needed to continue receiving that input.

Chairman Mathers said the Board members appreciated the time Regent Topel spent with the Board and they would miss his advice. Mathers said the time Topel took to address the Montana University System's budget had been above and beyond the call of duty and that he couldn't recall a Regent who went over the budget as extensively as Topel had. Chairman Mathers thanked Regent Topel for his service and expressed the Board's appreciation.

Chairman Mathers adjourned the meeting at 12:05 p.m.

CAMPUS REPORTS

MSU President Miles Malone distributed a booklet titled "Adaptation: Transition and Experimentation: Trends and Concerns in a New Context" on service publication. Malone also distributed a press release from the Center for the Study of the Montana State University System. Malone received from the National Endowment for the Humanities.