

MINUTES OF THE BOARD OF  
REGENTS OF HIGHER EDUCATION  
MONTANA UNIVERSITY SYSTEM

March 23, 1976  
Helena, Montana

The Board of Regents of Higher Education met at 1:30 p.m., Tuesday, March 23, 1976, in the Governor's Reception Room, State Capitol, Helena, Montana.

The meeting was called to order by Chairman Ted James. Present were: Mr. Lewy Evans, Mr. Ted Heberly, Mr. Jeff Morrison, Mrs. Mary Pace, Mr. Sid Thomas and Dr. Lawrence K. Pettit.

On motion of Commissioner Pettit, seconded by Mrs. Pace the minutes of the February 6, 1976 and the March 1, 1976 minutes were approved.

Mr. Sid Thomas reported for the Budget Committee since the chairman was not present at the committee meeting. He read the following statement, which was approved by the Budget Committee, and moved its adoption by the Board:

The Board of Regents concurs with the funding alternatives expressed by Mr. Mike Billings, Director of the Office of Budget and Program Planning, in his letter dated March 11, 1976 addressed to the Commissioner of Higher Education. The Board, however, will not assume responsibility for approving a community college budget level which is predicated upon a level of general fund support that exceeds the appropriated amounts in HB 271. The local boards of trustees must assume responsibility for the level of local funds approved in the community college operating budgets for fiscal year 1976-77. The Board of Regents, however, is sympathetic with the severe financial stress created by insufficient state support and will lend its support to a supplemental appropriation if all local funding attempts fail. The Board will give additional consideration to community colleges if any funding subsequently becomes available which could legally be used to supplement the community college budgets.

The motion was seconded by Mr. Heberly and carried. Mr. Morrison stated that if any supplemental funds become available they should be distributed to all three institutions rather than just to those who are unable to raise the money locally.

Mr. Thomas moved that the Board of Regents acknowledge receipt of an item from Montana State University regarding the anticipated level of grant and contract research activity for 1975-76, which states that the current year's activity is expected to reach approximately \$6.2 million compared with \$4.2 million the previous year and that indirect cost money received in the contracts will approximate \$950,000, which will require a budget amendment in the amount of \$750,000. Mrs. Pace seconded the motion and it carried. It was reported that Montana State University will be forwarding detailed explanations and program cost breakdowns to justify and explain the required budget amendment at the next meeting.

Mr. Thomas, Chairman of the By-laws and Policy Committee, reported that the committee had amended Item 2-014-R1073, Policy for Naming Buildings, Montana University System. He moved that the Board adopt the amended item. The motion was seconded by Mr. Morrison and carried.

Amendments to Item 2-901-R0973, Duties of the Commissioner of Higher Education, Montana University System, were approved on motion of Mr. Thomas, seconded by Mrs. Pace.

Mr. Thomas reported that an amendment to Item 8-001-R0475, Policy Regarding the Selection of Academic Administrators, Montana University System, was recommended for approval by the Policy Committee. He so moved. The motion was seconded by Mrs. Pace. President Bowers spoke in opposition to the recommendation, stating that it seemed to him that this would imply a change in administrative structure within the university system wherein the presidents of

the institutions would be reporting to the Commissioner. He said he would like to have that issue discussed before this particular policy is amended. Dr. Pettit replied that he didn't view this as any change from the provisions of Item 2-901-R0973 spelling out the duties and responsibilities of the Commissioner. The motion failed, with the majority voting, "no". Mr. Thomas made a substitute motion that the item be amended to strike the words, "must be approved by the Commissioner of Higher Education" and add the phrase "will be recommended by the Commissioner of Higher Education". The substitute motion died for lack of a second. Dr. Pettit urged that the Board reconsider the vote on this item. Mr. Heberly pointed out that he wanted to qualify his "no" ~~note~~ by saying he felt it was time that the Board definitely established the relationship of the Commissioner to the presidents of the institutions. He said there was no doubt in his mind that the Commissioner out-ranks the presidents, but that the Board should "come out and say it and not try to establish the point through a lot of separate policy items." Dr. Pettit said that the effect of the negative vote on Item 8-001-R0475, however, made it appear as though the Board was saying that the Commissioner does not out-rank the presidents. He said that under those circumstances it would be impossible for him to function as Commissioner. He added that he thought the authority patterns had been well-established, especially under policy item 2-901-R0973, but that apparently President Bowers did not interpret that the way he did. He said that he would like a clear expression from the Board to settle the matter. Mr. James indicated he had always understood that the Commissioner out-ranks the presidents. He asked if there was any doubt in the

minds of any of the members as to whether this is true. Mr. Thomas said he felt that Item 2-901-R0973 defines the powers of the Commissioner very explicitly. Dr. Pettit said he would appreciate having some expression from the Board on this matter so that everyone would understand it in the same way. The Board members unanimously agreed that the Commissioner out-ranks the presidents, and that they should report through him. Mr. James reported that he would refer Item 8-001-R0475, Policy Regarding the Selection of Academic Administrators, Montana University System, back to the Policy Committee for further consideration.

Item 11-008-R0376, Policy Regarding Personnel Decisions, Montana University System, was approved on motion of Mr. Thomas, seconded by Mrs. Pace.

Mr. Thomas reported that Item 11-009-R0376, Rescission of Action on Mont. PIRG, Montana University System, was considered and tabled by the Policy Committee. He moved that the Board accept the committee recommendation. The motion was seconded by Mrs. Pace and carried.

Mr. Thomas moved approval of Item 11-010-R0376, Policy Regarding Student Participation in Personnel Decisions Concerning Academic Administrative Officers, Montana University System. The motion was seconded by Mrs. Pace and carried, with Mr. Heberly voting "no".

Mr. Thomas moved approval of Item 11-011-R0376, Contract Definition of Academic Year for the Purpose of Determining Sick Leave, Montana University System. The motion was seconded by Mrs. Pace and carried.

Item 11-202-R0376, Authorization to Establish an Extended Campus of the School of Nursing in Missoula, Montana State University, was approved on motion of Mr. Thomas, seconded by Mr. Heberly.

Item 11-006-R0376, Increase in the Student Admission Fee, Montana University System, was approved on motion of Mr. Thomas, seconded by Mrs. Pace. Dr. Pettit reported the item had been amended during the Council of Presidents meeting to give the institutions an option respecting the implementation date.

Mr. Thomas reported that the Policy Committee discussed Item 11-007-R0376, Rescission of Previous Action (Oct. 24, 1973) Authorizing the Employment of Additional Staff Counsel at the University of Montana and Montana State University, at length but was unable to reach a decision. He said the item was forwarded to the Board without a committee recommendation. *The motion was seconded by Mr. Morrison.* A considerable amount of discussion followed. Mr. Morrison asked if it would be possible to employ a staff attorney at each campus whose duties could be controlled by the Commissioner of Higher Education. He said it was his opinion that legal counsel on each of the campuses would probably more than pay for itself. Mr. James disagreed, stating there is no way the chief attorney in Helena could supervise the work. He said the campus attorney probably would be paid more than the Commissioner's chief legal counsel and would end up doing considerable work not related to the legal problems of the institution. He said if such a person is located on the campuses he could, however, have work delegated to him from the Commissioner's office. Dr. Irving Dayton, Academic Vice President for Montana State University, explained some of the reasons why it is the feeling of the administration at MSU that it is necessary for legal counsel to be employed at the institution. Mr. James asked Mr. Barry Hjort, Assistant Commissioner for Labor Relations and Legal Affairs, to comment. Mr. Hjort

remarked that it is his personal feeling that there is probably a good deal of need on a day-to-day basis for legal advice on each of the two university campuses and that there are certain kinds of preventive things that could be accomplished. He stated his personal view that a valuable service could be rendered at the campus level. President Bowers stated that he felt if legal counsel is not allowed at both universities it should not be allowed to continue at either. He commented that the University of Montana had saved considerable time and money and had prevented problems from developing by having someone who could give a legal perspective on a number of matters which arise frequently. The question was called for and the motion failed on a unanimous vote.

Mr. Morrison then moved that any attorneys for the two campuses be hired through the Commissioner with the Commissioner setting the salaries which would be paid by the institutions. President Bowers said if the salary is to be paid by the institution at least a joint effort by the president and the Commissioner should be considered. *Ms. James stated she would refer the matter of procedures for handling the hiring & setting the salaries of legal counsel back to the Policy Committee. Mr. Morrison then withdrew his motion.*

Mr. Thomas explained that as a result of the Board's directive to the Commissioner to present, by the March meeting, a recommendation on alternative organizational structures for the Montana University System, Dr. Pettit had made the following proposal to the Policy Committee who recommended its adoption:

The Board of Regents of Higher Education reaffirms its commitment to quality higher education services for all Montanans. Our students and potential students deserve ready access to reliable instruction of good quality. Others in our state have a right to expect that we maintain centers of expertise and intellectual leadership available to them in their efforts to solve public problems and improve the cultural tone of society.

Although we recognize — and assert — the need for continued review of programs and periodic reassessment of the various campus missions, we believe that the best interests of the state are served by maintaining some form of higher education activity at the present six campus locations. We take it as our duty, moreover, to reallocate programs, forge new kinds of relationships between and among our institutions, and take whatever other steps

are necessary in order to ensure the most sensible and responsible use of existing facilities. In an era in which we expect a general leveling off of total system-wide enrollment, we should guard against over-building of physical facilities on empty buildings at another campus.

*some campuses while maintaining*

Our goal is a truly coherent, integrated system of higher education, where the components fit together in a logical pattern, and are responsive to the central authority of the Commissioner of Higher Education and the Board of Regents.

Two of our institutions, Eastern Montana College and Western Montana College, soon will be without presidents, and in the case of Eastern, absent other top-level administrators as well. The situation will be met as follows:

1. The Commissioner of Higher Education will work with Western Montana College and the University of Montana to determine the best way of integrating those two institutions and the best use to be made of the Dillon campus. Critical to this decision will be the results of the review of all teacher-training programs in the system. That report is nearly completed. The Commissioner will designate interim leadership to serve at Dillon during the planning period.

2. The Commissioner will designate a strong interim president at Eastern Montana College who, if possible, will serve coterminously with President Heywood during the last 1 - 3 months of President Heywood's term. Once the Board has adopted modified "role and scope" statements for all campuses and acted on recommendations which may emerge from the review of teacher-training programs, a decision will be made with respect to establishing a search and screening committee for a new president.

3. The Commissioner will ensure that he has adequate staff and resources to continue the evaluation and reorganization of programs on the six campuses. Among the objectives will be those of:

- better serving the needs of the public
- reducing duplication of programs
- preventing unnecessary and avoidable escalation of costs, and
- enriching and improving programs through inter-unit cooperation.

Mr. Thomas moved that the proposal be adopted by the Board. The motion was seconded by Mrs. Pace; *and carried unanimously* Dr. Pettit said that this proposal acknowledges that the Board wants to make the most efficient use of all facilities rather than abandoning some and possibly having to build additional ones at other locations. Mr. Morrison said that he felt this move was a commitment on the part of the Board to upgrade Western Montana College. He said if it means that Western would be downgraded or turned into a community college he was against it, but if it means a better utilization of Western, building on some of the strengths it already has and perhaps bringing in some new programs, he was in favor of it. Mr. Thomas indicated that this is a very broad policy statement and that the intention of the committee is that it should not be a rigid one.

Mr. Thomas reported the Policy Committee had recommended that the following revision be made in the faculty contract provisions:

Section 9(b)

In every case of termination related to financial exigency or bona fide discontinuation of a program or department of instruction, a member of the professional staff will be given notice of termination as soon as practicable, but in no case less notice than specified in Section 3 above. In the event that such notice is not given, the professional staff member shall be entitled to severance salary for the period of required notice, dating from the time written notice was given.

He moved that the Board adopt the committee recommendation. Mrs. Pace seconded the motion and it carried.

Mr. Thomas reported that two alternatives for revision of Section 2 of the faculty contract were discussed by the committee and both were forwarded for Board consideration without recommendation. Mr. James asked Mr. Hjort to comment on the alternatives presented. Mr. Hjort remarked that he felt most faculty groups were in favor of amending Section 2 in the last clause of the first paragraph to add the word "continuous" before the word "service" so that it would read: "and



further provided that any unit of the Montana University System may require up to four full-time academic years or its equivalent of continuous service at the institution before making an award of continuous tenure." Mr. Thomas moved that this revision be adopted. Dr. Pettit seconded the motion and it carried.

Mr. Thomas then moved that the Policy Committee recommendation that the Board of Regents direct the Commissioner of Higher Education to immediately undertake a review of public information efforts in the Montana University System and subsequently to make recommendations on developing a more coordinated public information system be adopted. The motion was seconded by Mrs. Pace and carried.

Dr. Pettit reported that the Council of Presidents had a meeting but all the recommendations had been acted on through the Policy Committee.

Dr. Harold Holen, Chairman of the Inter-Unit Faculty Council reported that the Faculty Council had no recommendations at this time.

It was reported that the Student Advisory Council had no recommendations at this time.

Item 11-700-R0376, Staff, Eastern Montana College, was approved on motion of Dr. Pettit, seconded by Mrs. Pace.

Item 11-500-R0376, Staff, Montana College of Mineral Science and Technology, was approved on motion of Dr. Pettit, seconded by Mrs. Pace.

Item 11-800B-R0376, Staff, Northern Montana College, was approved on motion of Dr. Pettit, seconded by Mr. Morrison.

Item 11-601-R0376, Authorization for Use of Land for a Public Swimming Pool, Western Montana College, was approved on motion of Mr. Thomas, seconded by Dr. Pettit.

Mr. James reported that Mr. George Madden, President of

the EMC Chapter of the American Federation of Teachers, was in attendance and wished to comment on the Eastern Montana College faculty bargaining contract. Mr. Madden said it was the intention of the AFT/AAUP Coalition to have one of their members in attendance at each of the Board of Regents meetings in the future. He mentioned that the faculty at Eastern Montana College had voted to ratify the negotiated contract and were eager for the Board of Regents to ratify it. He commended Mr. Barry Hjort for the manner in which he had handled the negotiations. Mr. Thomas moved that the Eastern Montana College bargaining agreement be ratified by the Board. The motion was seconded by Dr. Pettit and carried. Mr. Thomas moved that the Western Montana College bargaining agreement be ratified by the Board. The motion was seconded by Mrs. Pace and carried.

The Board recessed at 2:50 p.m.

The Board reconvened at 3:15 p.m. with the same members present.

Mr. James called on Mr. Jim Ness to introduce consultants and representatives of the Arthur Andersen Company who had been working on the uniform accounting study. Mr. Ness outlined the historical perspective on the accounting problem. He reminded the Board that the final report of the Postsecondary Education Commission recommended that a statewide uniform accounting system be adopted for all units of the Montana University System. Mr. Ray Dore distributed copies of letters which evidenced the high level of cooperation given to the study from various agencies. Mr. Ness introduced Mr. Harry Walter, General Partner of the Arthur Andersen Company, who made an oral report of what had been accomplished to date and remarked that the written report would probably be issued the first week in April and would contain detailed recommendations. He said the major benefit would be that there would be comparable reporting among the institutions. He recommended that the Commissioner put together a group to undertake the matter of developing the sub-systems. He stated that the institutions would have to commit themselves to at least 1/2 time

to accomplish this. Mr. Ness repeated that there had been a good consensus of approval of the study among the university units and the state departments, and that a remarkable amount of progress had been made to date. He mentioned that the Arthur Andersen Company had not been retained to go into the implementation phase as yet. He noted that there are three alternatives and pointed out that one must be chosen immediately. He explained that the Board could follow the short-term recommendations by July 1, 1976, in which case the institutions would have to have some assistance. He said that at the state level someone would be needed to address the matter from both sides. He noted that the Commissioner had taken some significant steps, one of which was to hire a new accounting director. Mr. Ness noted that in accordance with the provisions of HB 271, the minimum that can be done at this time would be to implement the short-term recommendations.

Mr. James asked Judy Ripplingale, Legislative Fiscal Analyst, to comment. Ms. Ripplingale stated that it is absolutely vital that this work be continued inasmuch as it will assist people at the state level who will be needing comparable data. Mr. Doyle Saxby, Deputy Director of the Department of Administration, added that he felt there is a drastic need for continuation of the project, although he didn't see how the business managers of the institutions could get the job done by July 1, 1976. Mr. James asked for comment from Representative Dorothy Bradley, who was in the audience. Representative Bradley stated she agreed with everything that had been said. Mr. Tom Nopper, Business Manager at Montana State University, added that he didn't feel the university units have the personnel, time, etc., to get this job done satisfactorily and he urged that the Board approve the project through the implementation stage. Mr. Evans moved that the Arthur Andersen Company be authorized to complete the accounting study through the implementation phase. Mrs. Pace seconded the

motion and it carried. Mr. Thomas asked Ms. Rippingale if she felt this would be a legitimate expenditure from the Regents discretionary fund. Ms. Rippingale agreed that the business managers couldn't possibly do this, in which case the only alternative would be to use money from the discretionary fund.

Mr. James called on President Bowers to discuss the status of the problem at the University of Montana Law School. President Bowers distributed copies of a letter he had just received from the American Bar Association advising him of a resolution of the Accreditation Committee of the Section of Legal Education and Admissions to the Bar which was agreed to by the Council on Legal Education which stated in essence that unless a commitment is made by the University of Montana on or before April 1, 1976 indicating assurance of prompt compliance with the Standards for Approval of Law Schools by the American Bar Association the University would be placed on the agenda of the May, 1976 meeting of the Accreditation Committee for the purpose of considering whether a notice for a hearing shall be issued. President Bowers reported he had communicated with Dean James White, Consultant on Legal Education, this morning and the deadline date was extended to April 13, 1976 in order to give the Board of Regents more time to discuss the matter. He urged that the Board take that time, stating that there does not seem to be any question that if the commitment is not made, the University would be going to a hearing on the accreditation process which would have a serious effect on the Law School. President Bowers mentioned that in discussing the matter with Dr. Robert Sullivan, Dean of the School of Law, he indicated that a request from the Regents would be made for a more specific priority for building a law school addition. He said it is now listed among the five top priorities of the University of Montana. President Bowers pointed out that in his opinion this matter is one of the most serious the University and the Board has to concern itself with at this time. He reported he had put

together some statistical data on the Law School which he distributed. He said there are serious questions being raised when outside agencies dictate policies of the University and the Board; that there is also much concern on the campus in the other professional schools; therefore he was not prepared at this time to make a recommendation to the Board but would present a recommendation in April. He acknowledged that Dean Sullivan was present and might wish to make some comments and answer any questions Board members might have. Dean Sullivan presented a history of the problems in the Law School. He pointed out that the School is now about \$100,000 short of meeting the demands of the American Bar Association and he felt that the discretionary fund created by the Legislature should be used to solve a problem of this nature. Mr. James asked Ms. Rippingale how she felt about using the Regents discretionary fund for purposes such as this. She replied that the fund was appropriated to the Regents for use in the university system. Mr. Morrison pointed out that in the demands of the American Bar Association there was no reference to quality. Mrs. Pace stated she didn't understand how the ABA could feel that paying the present faculty more money would necessarily provide a better quality Law School. President Bowers recalled that the University of Montana was expecting a pharmacy accrediting agency this spring and a theater agency this year or next and that both of these agencies had pointed out some rather serious violations in both the areas of faculty salaries and space. He remarked that the accrediting agency for the MPA degree in the Business School would not even send in a team largely because of financial inadequacies. The matter was tabled until the April meeting.

The Board recessed at 4:40 p.m. for an executive session.

The Board reconvened in open session at 7:00 p.m.

The honorary degree candidates submitted by Montana State University were approved on motion of Mrs. Pace, seconded by Mr. Heberly.

Mr. Ted Heberly, Chairman of the Budget Committee, reported that after a lengthy discussion relating to the problem of Montana State University's failure to report about one million dollars in student fee income, the Board had agreed that the \$915,320 allotted to Montana State University in April of 1975 from the Regents discretionary fund should be rescinded and the situation re-assessed in light of present needs of the university system and that a determination be made of the effect the non-disclosure had on the 1975 distribution. He so moved. Mrs. Pace seconded the motion and it carried.

The next meeting was scheduled on the statutory date of April 12, 1976 at 9:00 a.m. in Helena, Montana.

On motion duly made and seconded the meeting adjourned at 7:10 p.m.