

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

DATE: December 14-15, 1989

LOCATION: Conference Room  
Montana University System  
33 South Las Chance Gulch  
Helena, Montana

REGENTS Lind, Redlin, McCarthy, Topel, Clouse  
PRESENT: Kaze  
Commissioner of Higher Education Carrol  
Krause

REGENTS Mathers  
ABSENT:

PRESIDENTS Koch, Carpenter, Kerins, Norman, Tietz,  
PRESENT: Provost Easton

PRESIDENTS None  
ABSENT:

Minutes of Thursday, December 14, 1989

Planning Committee

Commissioner Krause, Chairman of the Planning Committee, called the meeting to order at 1:30 p.m. He outlined the plan for the Committee to meet with the Governor on January 25, 1990 to discuss the System's plans for meeting deferred maintenance and capital construction needs, and the college savings bonds proposal. When the time of the meeting is confirmed, Dr. Krause will inform members of the Committee.

December 14-15, 1989

Information on College Savings Bonds

Deputy Commissioner Noble explained the report he planned to present to the executive branch is not available at this time, but will consist of three components. He reviewed information supplied by Vice President Isch, MSU, received at a national conference on "Decay of the American Campuses" which will be incorporated into the report. Mr. Noble spoke also to the need to update the cost of construction of the three major facilities needed by the System - the MSU engineering building, the business school building at UM, and the classroom instructional facility at EMC. Costs of construction escalate every year and those figures are no longer realistic. The college savings bond proposal is a solid vehicle to use to finance construction needs; to make the public aware of the costs of financing higher education in the future; and is a realistic means to obtain the needed financing even in the face of the state's current economic condition.

It was agreed an updated range of construction costs for the System's capital construction priorities would be obtained to be available at the meeting with the Governor on January 25, 1990. Those updates should also be obtained on construction costs for the facilities at NMC and Montana Tech which are also part of the System's priority requests to the Legislature. The figures will be further refined as the next biennial budget is developed.

At President Tietz' request, Mr. Noble discussed the possible size of a bond issue the System could expect to obtain. That is a question an underwriter would have to respond to; however, as

December 14-15, 1989

Montana draws closer to reaching the end of its present long range building program obligation, the size of a future issue could become larger. What the revenue stream of such an issue will support will have to be determined, as will the percentage of that revenue stream the System can expect to realize.

President Tietz noted he would like discussions to include a second issue, i.e., the need of the System to obtain a dedicated source of funding to address on-going deferred maintenance and equipment needs. Increasing the six mill levy was proposed, as was using a portion of the interest flow into the Coal Tax Trust account. This topic should be part of the discussion with the Governor.

Regent Lind clarified that he had not contemplated using the college savings bond issue for deferred maintenance. A dedicated source of revenue needs to be found to address those needs, not only within the System, but for all state facilities. In trying to determine what could be an appropriate source of such a revenue stream, the revenue flow into the Coal Tax Trust Fund or the interest coming out were suggested. The Governor was amenable to such an approach before the last legislative session, but did not have an appropriate timeframe to react to it.

Commissioner Krause turned back to the college savings bond proposal, noting originally it was anticipated sale of those bonds would be limited to Montana residents. Whether or not the issue is so limited, the investment industry is anxious for these issues; the market is excellent.

December 14-15, 1989

It was agreed the Planning Committee will meet again on January 25 before the meeting with the Governor to prepare the presentation. Jack Noble was directed to have available at that time the estimates of the revenue stream of such an issue, including the percentage of that revenue stream that would be consumed if \$40 - \$50 million is dedicated to the University System. The report should also include how much revenue flows into the Coal Tax Trust Fund and the interest generated.

Report on Deferred Maintenance and Capital Construction Needs of the Montana University System

Bill Lannan reported information requests to obtain the necessary information have been sent to all units and vocational-technical centers. The information will be put in appropriate format and sent to the Planning Committee and the Regents prior to the January 1990 meeting. The amount appropriated to the Long Range Building Program for the state by the last Legislative Assembly did not begin to touch the surface of the needs. Costs are growing. The amount needed just for deferred maintenance, not only for the University System but for the entire state, will be overwhelming. Mr. Lannan strongly endorsed the concept of a dedicated revenue source to meet those needs in an annual amount of approximately \$5 million.

Mr. Lannan stated his report will include revenues that are anticipated to be received from the cigarette (sin) tax.

Other alternatives that might be revisited included a corporate license tax and a tax on soda pop.

December 14-15, 1989

Minutes of the Board of Regents

Thursday, December 15, 1989

In the absence of Chairman Mathers, Vice Chairman Redlin called the regular meeting of the Board of Regents to order.

Roll call was taken and it was determined a quorum was present.

Vice Chairman Redlin called for additions or corrections to the minutes of the previous meeting. Hearing none, the minutes of the November 2-3, 1989 meeting were ordered approved.

Committee Schedule

Joint Meeting - Vocational-Technical Committee;  
Curriculum Committee

Submission Agenda

The following items were received for consideration at the January 1990 meeting:

Item 66-7001-R1289, Program Approval and Revision;  
Montana Vocational-Technical System  
Item 66-7002-R1289, Program Deactivation and Closure;  
Montana Vocational-Technical System

Regent Kaze requested staff report at the January 1990 meeting on what points are divergent and what points are common in Items 66-7001 and 66-7002 with similar policies in effect for the University System.

Deputy Commissioner Hutchinson commented on Item 66-101-R1289, Bachelor of Liberal Studies; Western Montana College of the University of Montana; University of Montana. The Academic Vice Presidents of the units have reviewed the proposal. He recommended the item be received, but that Western Montana College supply additional information on the number of upper division hours that will be required of students who pursue the degree, and a statement be appended indicating there

December 14-15, 1989

would be a sufficient number of upper division hours. Clarification should also be provided on areas of emphasis within the liberal studies degree and what the prescribed courses of studies students would pursue in each of those areas. Dr. Hutchinson emphasized the areas of emphasis are not majors.

Provost Easton stated Western will supply the information requested before the item is slated for action.

#### Action Agenda

Commissioner Krause reported at its last meeting the Board requested comments from other units be forwarded on Item 65-001-R1189, Merger, Montana University System, Montana Vocational-Technical System, the proposed merger policy. The only comments received are included with the agenda material, and are positive. The item does not appear to be controversial, and while it was originally scheduled for action at the January 1990 meeting, it is now recommended for action at this meeting.

Deputy Commissioner Vardemann referenced her memorandum sent with the agenda materials which responded to the Board's direction at the November meeting that the definition of the term "merger" be revised to reflect that certain previous characteristics of a merged institution be retained throughout a merger situation and beyond. The revised definition proposed states:

Merger is the fusion or absorption of one institution into another with the result that the merged institution ceases to have an independent existence. Although a merged institution may retain, at the discretion of the Regents, certain elements of the unique role and mission which

December 14-15, 1989

characterized it prior to merger, its overall purpose and support functions are assimilated into the other institution. Activities such as instruction become but one function within, while support activities are assumed by the accepting institution.

The Board concurred that action would be taken on the item at this meeting.

Regent Lind explained his concern with administrative merger was with protection of the merged institution's unique nature and preservation of its individuality to give it the political and social acceptance within the community.

After discussion, Deputy Commissioner Vardemann suggested the definition be amended to read:

Merger is the fusion or absorption of one institution into another with the result that the merged institution ceases to have an independent existence. A merged institution may retain, at the discretion of the Regents, certain elements of the unique role and mission which characterized it prior to merger.

Regent Kaze moved the definition of merger in Item 65-001-R1189 be amended as proposed. The motion carried.

Commissioner Krause referenced discussion at the last Regents' workshop on the possibility that merger proposals might be delayed pending, for instance, receipt of the Education Commission of the 90's report. Clarification is needed on when the Board will entertain merger proposals.

Regent Kaze stated he believed the policy in place provides that guideline. Regent Redlin stated she had no problem with units planning cooperative

December 14-15, 1989

efforts, curricular associations, etc., but she did have concerns with "piecemeal mergers." She suggested an amendment prohibiting actual signing of final merger agreements until January 1, 1991.

Commissioner Krause stated this is the issue he wished to discuss. During the last legislative session there were many voices raised criticizing the System for not moving quickly enough in the direction of merger of institutions. If the policy on merger is approved, he asked the Board to consider directing the Commissioner to proceed with such studies as are necessary so the Board would have accurate data to support any financial requests it might make of the legislature to accomplish such mergers.

Regent McCarthy concurred this was the intent of the Vocational-Technical Sub-Committee's recommendation.

Regent Redlin responded she was certain the Board understood she did not really wish to see merger. She believed there should be two separate, related closely cooperating elements in higher education

Regent Kaze stated he believed he understood Regent Redlin's concerns. If he understood the policy correctly, it is intended to address that very issue. He stated he hoped the Board was not adopting a policy for the purpose of driving headlong into a process with some preconceived notion of the result. He could envision a situation in the future whereby the Commissioner was directed to conduct a study on the merger of even diverse institutions, but it could end in a determination that such a merger should not occur. It would not necessarily be a study to make a



December 14-15, 1989

merger of any type occur; it would be a study to determine whether or not merger is appropriate, and if appropriate, what kind of merger.

President Kerins, NMC, asked for clarification on the kind of study being directed. Does it solicit discreet plans for merger from a unit and a nearby or corresponding vo-tech center? Is there any systemwide examination of avenues and alternatives and possibilities? Have the center directors presented a plan they believe would work? Have the unit presidents presented such a plan?

Commissioner Krause responded there is not consensus on that, although there has been extensive discussion. The policy under discussion was proposed to provide opportunity to examination of merger in areas where there would be real benefit to the System. The policy probably does provide for discreet proposals. He restated his position of advocacy of merger of the vo-tech centers into the units because in three instances there are two state institutions operating in the same town. The Board has not been willing to simply state there will be merger; it has indicated there may be areas or communities where merger is desirable. Mergers, under this policy, would be looked at individually; the policy does not direct the Commissioner to begin studies of such mergers independently from proposals being brought forward.

Hearing no further discussion, Regent Kaze moved Item 65-001-R1189 be approved as amended. The motion carried.

Commissioner Krause asked the Chair to determine if it is the desire of the Board that he begin

December 14-15, 1989

study of merger opportunities under the guidelines set out in the "Procedures" section of the approved merger policy.

Regent McCarthy moved the Commissioner be directed to proceed under sections 1 and 2 of the "Procedures" section of the adopted policy.

Regent Kaze stated he had not envisioned the policy would result in a directive to study the entire System. His understanding was that if the Board identified a situation that required study, the Board would find sufficient reason for the formal exploration of merger.

Commissioner Krause stated his intent was to study merger proposals between Montana Tech and the Butte Vo-Tech Center. Regent Kaze stated if that is the intent, it should be so stated. Regent Lind agreed with Regent Kaze, noting the divergence of opinion that arose from previous study conducted by the Commissioner's staff will continue to exist. The Board needs to look at a specific example of merger to determine if it is functional.

Regent McCarthy amended her previous motion to direct the Commissioner to commence a study to determine if merger is appropriate between the Butte Vocational-Technical Center and Montana Tech.

Regent McCarthy's amended motion carried.

Report on Review of Vocational-Technical Centers By Northwest Association of Schools and College

Deputy Commissioner Vardemann reported that during October 1989 each of the five vocational-technical centers were visited by teams from the Northwest Association for varying levels of review. The

December 14-15, 1989

reports of those on-site visits have been received, and in all cases, accreditation was reaffirmed for all the centers. The two institutions under show cause are now removed from that status.

At the Commissioner's request, each of the Center Directors reported on their individual reviews, and outlined the steps taken to correct deficiencies found in previous accreditation visitations.

The Board commended the Center Directors for the excellent reports, acknowledging the hard work this involved in addition to the many other changes occurring at the Centers as a result of their placement under the aegis of the Board of Regents.

#### Budget Committee

Deputy Commissioner Noble presented Item 66-901-R1289, Budget Amendment: \$21,722.50 (Federal) Education for Economic Security Act; Office of Commissioner of Higher Education. The item provides authority to expend carry-over money from the previous year. Appropriate certifications are contained in the item, and it has been forwarded to the Budget Office and the Legislative Fiscal Analyst's Office. On motion of Regent Kaze, the item was approved.

At the Commissioner's request, Deputy Commissioner Hutchinson reported on the status of the science and mathematic grant provided by the Education for Economic Security Act.

Dr. Hutchinson noted a correction should be made in the title of the grant. It is now titled the "Dwight D. Eisenhower Science and Mathematics Education Act. Approximately \$163,000 was awarded to Montana, apportioned according to a scale determined by the

December 14-15, 1989

appropriate federal agency. Request for proposals were sent out in mid-August. Response to the RFP's was unusually large with representation from both the public and private sector. Awards were made December 1, 1989 to eleven principal investigators, whose final reports will be due December 1, 1990. Four units in the System received awards.

Vice Chairman Redlin noted the Board had completed its published agenda work much earlier than anticipated, and asked if it would be appropriate to move to a portion of the agenda noticed for Friday's meeting. The Commissioner responded he believed it would be acceptable to move to the By-Laws and Policy Committee agenda.

By-Laws and Policy Committee

Action Agenda

Commissioner Krause explained Item 28-002-R0980, Montana Higher Education Student Assistance Corporation (REVISED) was placed on the Submission Agenda to await action by the MHESAC Board. That Board met this morning, and adopted a policy consistent with the one before the Board of Regents. Without objection, Item 28-002-R0980 was moved to the Action Agenda.

Commissioner Krause reviewed the membership requirements of the MHESAC Board of Directors. Under the Articles of Incorporation of MHESAC, the Commissioner of Higher Education is directed to serve as President of the MHESAC Board, and staff in the office of the Commissioner of Higher Education is authorized to assist the Commissioner in the conduct of the management of the Corporation as directed by the Commissioner.

December 14-15, 1989

Certain Regents are also members of the MHESAC Board by virtue of offices held on the Board of Regents, such as Chairman of the Budget Committee, Student Regent, etc.

At its meeting earlier this morning, the MHESAC Board adopted a policy to provide a small recognition of the work of the officers of the Corporation, and established an amount of remuneration for the officers for services rendered by the President, Secretary/Treasurer, and Vice President. These officers spend a considerable amount of time carrying out MHESAC responsibilities, and the MHESAC Board felt this action to be appropriate.

The policy before the Board provides authorization for employees of the Board of Regents to serve on the MHESAC Board and to receive compensation established by the MHESAC Board. The item neither directs Board employees to perform these services, nor take the compensation if they chose to reject it. The amount of compensation is set by MHESAC, and will be presented on a staff item each year for Board of Regents' approval. The Director of the MHESAC Board independently calculated the services rendered by these officers in terms of numbers of hours required to perform the services, and made this recommendation after surveying other private corporations. The policy was unanimously adopted by the MHESAC Board. Questions of conflict of interest have been addressed by Chief Counsel Schramm and MHESAC counsel.

On motion of Regent Kaze, Item 28-002-R0980 was moved to the Action Agenda and approved as amended.

Deputy Commissioner Hutchinson reviewed Item 18-006-R1077, High School Honor Scholarships;

December 14-15, 1989

Montana University System. He explained the proposed revision addresses the problem which has occurred when students attend a home or unaccredited school where it might be possible to marshal a very high grade point average, then move into an accredited high school, graduate, and be awarded the High School Honor Scholarship over a student who had attended an accredited high school throughout his/her academic career. The policy revision would require that a student transfer into an accredited school at the beginning of the sophomore year to be eligible for the High School Honor Scholarship.

Regents requested further information on the nuance between a home school and an unaccredited school, and whether accreditation means that provided by the Northwest Association of Schools and Colleges and/or that provided by the Board of Public Education carried out by the Office of Public Instruction. Dr. Hutchinson stated research indicates that the distinction between a home school and an unaccredited school is not an important one. The fundamental question has to do with the competency of teachers and their certification. Board of Public Education staff indicates home schools and unaccredited schools should be treated in the same fashion.

Regarding Northwest Association versus Board of Public Education accreditation, many more schools in Montana are accredited by the BPE than by the Northwest Association. Credits earned in schools accredited by the BPE are fully transferable to all schools with the same accreditation. Dr. Hutchinson stated in his opinion BPE accreditation is the one that

December 14-15, 1989

should be operative in this matter. He recommended approval of the revised item.

Dr. Hutchinson responded to Regents' questions concerning accreditation of home schools, private schools, and testing requirements for students wishing to transfer from home schools into the public school system.

It was noted that while Dr. Hutchinson recommended BPE accreditation as the standard, that is not stated in the item. After discussion, Regent Lind suggested the item be amended under "Procedures" in Section 1. a. lines 3 and 4 to insert "state" before accredited. With that amendment, students transferring into Montana from another state's accredited high school would also be eligible to receive the scholarship.

On motion of Regent Lind, Item 18-006-R1077 was amended as proposed in Section 1 a., and approved.

The meeting recessed until Friday morning at 9:00 a.m.

The Board of Regents reconvened immediately in Executive Session.

Minutes of Friday, December 15, 1989

Vice Chairman Redlin called the meeting to order at 9:00 a.m. The same members were present, with the exception that Dr. Ronald Sexton attended for President Bruce Carpenter.

Vice Chairman Redlin noted the Board's action of the previous day in moving forward on the agenda and taking action on the High School Honor Scholarship policy revision published for hearing during today's meeting. Interested persons have requested the Board reconsider its action on that policy, and allow a period for public testimony on the item.

December 14-15, 1989

Dr. Hutchinson explained to the interested persons present how the item came forward at the request of admissions and registrars offices in the System. The amendment was proposed to prevent a possible abuse of the High School Honors Program. Accreditation was chosen as the yardstick because accreditation is the system whereby educational institutions can be recognized as having some minimal level of quality, performance, and integrity, and assure some confidence in the grades earned in that particular school and in the stewardship of public funds.

Mr. Steve White, Helena, spoke in opposition to the three-year requirement to be eligible for the scholarship, citing inequality of treatment to those students being educated in private schools. If a student transfers into an accredited school even in the senior year and does well, he should have the scholarship opportunity.

Mr. Jim Donaldson, Chuckie Kramer, and Pascal Redfern also spoke in opposition to the policy revision, claiming implication students were not graded honestly in home or private schools, parents rights to chose the education system for their children to fully develop their potential, and questions of discrimination. All objected to the requirement that students must attend an accredited school for three years, and urged reconsideration of the Board's action approving the policy.

Claudette Morton, Executive Secretary to the Board of Public Education, spoke to an apparent misconception on the issue of accreditation. The Board of Public Education does accredit home and private



December 14-15, 1989

schools if they wish to seek such accreditation. A committee is now studying special school accreditation in recognition that accreditation is not necessarily synonymous with public schools.

At the conclusion of public comment, Commissioner Krause spoke to the importance that all interested parties realize this is not a private versus public school issue. It is an accreditation issue where the curriculum is determined to be accreditable in terms of content by the appropriate agency for the state of Montana. The Board of Regents certainly has authority to determine standards for admission and does in fact treat students from non-accredited high schools differently in its admissions policies. That is long standing policy.

Comments from the Board of Regents included Regent Lind's statement that it is important to recognize only one scholarship is affected by the policy revision - the High School Honor Scholarship. There are a variety of other scholarships offered by schools and private organizations. There are advantages to a small private or home school if the school sought and received accreditation because it could have a single graduating senior, and that senior would automatically be entitled to the High School Honor Scholarship. Regent Lind believed there is merit in establishing a length of time that a student must attend an accredited school to qualify for the High School Honor Scholarship. That period has been established at three years.

Vice Chairman Redlin underlined her agreement with other's comments that this is not a public versus private school issue, nor is it intended

December 14-15, 1989

to be discriminatory. Public schools expend a great deal of effort in educating students, as do home schools. To put the two groups of students on equal footing for this one scholarship only - that there should be a competitive meeting of both groups on a common ground - was acceptable to the Board. Regent Redlin noted she did suggest early on that two years might be as suitable as three; however, she did not make that into a motion and the three year requirement was approved.

Vice Chairman Redlin stated the floor was open for a motion from the Board if it chose to reconsider its previous action. Regent Lind asked for comments the presentations from Dr. Hutchinson.

Dr. Hutchinson stated he would be amenable to reducing the three-year requirement to two years if the Board felt three years was unduly long. The fundamental issue, in his mind, remains a "buyer beware" or stamp of approval kind of issue. Without doubt there are excellent home and private schools, and the education earned in those settings is superb. But there is no way of knowing for sure what does occur without undergoing some kind of external scrutiny of the programs offered by an objective, unbiased observer. A home or private school that does not seek accreditation does not subject itself to that kind of scrutiny. Dr. Hutchinson said he would be extremely reluctant to reduce the requirement to less than two years.

Hearing no motion, Chairman Redlin stated the Board's action taken yesterday approving Item 18-006-R1077 stands. She thanked those who presented testimony today, noting the Board appreciated their insights, and hopes its viewpoint is understood.

December 14-15, 1989

Capital Construction Committee

After appropriate review and discussion, the following actions were taken on items on the Capital Construction Committee agenda:

On motion of Regent Kaze, Item 66-102-R1289, Asbestos Abatement Residence Halls; University of Montana was approved.

On motion of Regent McCarthy, Item 66-103-R1289, Remodeling Work Within the University Center to Create Office Space for Word Processing Services and Campus Quick Copy; University of Montana was approved.

On motion of Regent Kaze, Item 66-201-R1289, Authorization to remodel a suite of rooms in Culbertson Hall; Montana State University and Item 66-702-R1289, Authorization for Discontinuation of Residence Hall; Eastern Montana College were approved.

On motion of Regent McCarthy, Item 66-701-R1289, Authorization to establish a KEMC Translator Site to serve residents of Paradise Valley; Eastern Montana College was approved.

On motion of Regent Lind, Item 66-9001-R1289 Renew Lease of Rental Property; 2300 Poplar Street; Helena Vocational- Technical Center was approved.

Commissioner Krause reported Board policy requires a report on approved purchases by the University of Montana within the property acquisition zone authorized by Item 58-101-R1287. The property located at 626 South 6th East, Missoula, Montana has been acquired under that authorization at a cash contract price of \$56,000. Appropriate appraisals were submitted. The report is informational. No action is required.

December 14-15, 1989

Collective Bargaining Committee

Sue Romney, Director of Labor Relations and Personnel, reviewed the four tentative collective bargaining agreements before the Board for approval. Two are craft contracts; those are consistent with the wage and other settlements previously approved. Ms. Romney recommended approval.

The agreement with AFSCME Local 2235 covering classified, non-supervisory employees at Northern Montana College contains a variety of language changes. Most of those are technical, not substantive. The wages for those employees are set by the state classification and pay plan, and the agreement makes reference to that wage settlement.

The final agreement with the Vocational-Technical Educators of Montana #4610 is a new contract and covers instructional personnel at the vo-tech centers. The document was previously distributed to the Regents, and provides for wage increases based off of 1988-89 wages. Ms. Romney briefly reviewed the pertinent portions of the agreement, and acknowledged the assistance of members of the bargaining team in the long time-consuming process required to reach the agreement. The agreement has the support of the Center Directors, and has been ratified by the union.

Ms. Romney recommended approval of all four agreements.

On motion of Regent Kaze, the agreements with the International Brotherhood of Electrical Workers; United Association of Plumbers and Pipefitters; AFSCME Local 2235; Northern Montana College; and

December 14-15, 1989

Vocational-Technical Educators of Montana #4610, MFT, AFL-CIO were approved. The Commissioner and other appropriate officers of the Board are authorized to sign the appropriate contracts.

The Board expressed its appreciation to Ms. Romney and members of the collective bargaining team for the successful culmination of an extremely difficult process.

#### Old Business

Chief Counsel Schramm reported the three issues raised in the November 1989 meeting over the agreement transferring ownership rights for the Butte Vocational- Technical Center have been corrected. The amounts listed in the schedule of payments have been corrected to show the proper amounts. The agreement has been modified so that in the event of non-payment by the Regents the School District's sole remedy is to demand reconveyance of the property.

The third issue warrants some discussion. Regent Topel requested an environmental audit on the 40 acres being acquired to establish the defense of a "good faith buyer" when property is acquired in an area that has experienced mining or other activity that might lead a prospective buyer to suspect there may be toxic waste on or in the property. The audit cost \$1,500. The question arises, does the Board wish to make this standard policy, establish parameters for obtaining such an audit, or decide on an ad hoc basis.

After some discussion, Regent Kaze stated he believed the issue is more one of awareness. As proposals are considered, part of the process ought to be consideration of whether such an environmental issue

December 14-15, 1989

could exist. Regent Lind added that if an environmental audit is performed on a site and reveals there may be problems, a hold harmless agreement could be negotiated which would allow the purchaser to stand free and bring in the previous owner. Staff was instructed to be alert to potential problems in this area in future land purchases.

Update on Transfer of Billings and Great Falls Vocational-Technical Center Facilities

Dr. Schramm reported the Billings property has been resurveyed. Transfer of that facility should be on the agenda at the next regularly scheduled meeting.

Transfer of the Great Falls Vocational-Technical should be accomplished under a similar timeframe. The System is no longer in negotiations with the College of Great Falls. The transfer will be accepted and the facility operated under the System's interpretation of the covenant provision.

Commissioner's Report

Chairman E. Jilin referenced a letter received requesting a study on student health insurance to find a cost feasible program that in which all institutions could participate.

Dr. Krause reported on conversations held with David Evenson, Director of Benefits for the System, seeking ways to consolidate health coverage for all students. The subject is under consideration, and a report will be made to the Board when sufficient data is gathered to warrant a report.

Fire Service Training School

Dr. Krause reported on the status of responses to RFP's to house the Fire Service Training

December 14-15, 1989

School. Responses were received from Montana State University, the Great Falls Vocational-Technical Center, and the Missoula Vocational-Technical Center. Those responses have been distributed to the FSTS Advisory Council, and will be reviewed at the Council's meeting on December 17, 1989 in Great Falls. A recommendation will probably be made to the Board of Regents at the January 1990 meeting.

Report on WICHE Commission Meeting

Commissioner Krause reported on actions taken at the December 1989 WICHE Commission Meeting. Copies of "The WICHE Student Exchange Programs - Statistical Report - Academic Year 1989-90" were distributed. Of particular interest was the statistical report on the Western Undergraduate Program, now in its second year. Montana is the most active state in that exchange in both in-coming and out-going students.

Montana Telecommunications Cooperative

Dr. Krause reported the Montana Telecommunications Cooperative has been established. Its establishment was one of the recommendations of the HJR 58 Task Force, and some funding was obtained from the last legislature through HB 28. The Board of Directors has been selected, and invitations are being developed for entities to join the cooperative. Of the funds obtained, \$200,000 was dedicated to completing a network design. Bids were solicited and a contract awarded for network design. That portion of the project has a completion date of July 1, 1990. The remainder of the funds obtained will be utilized for implementation (approximately \$300,000). Dr. Krause will keep the Board informed as the project progresses.

December 14-15, 1989

Employee and Student Appeals

Appeal of Carl Scott

It was determined that Mr. Scott was not present, but was represented by Mr. Matt Thiel, Montana Federation of Teachers. Sue Romney was requested to present the issues; Mr. Thiel would then be given an opportunity to respond. Documents pertinent to the appeal were distributed to the Regents in the agenda material.

Ms. Romney stated Mr. Scott is an instructor at the Missoula Vocational-Technical Center. Prior to the governance transfer, the instructional employees at the Missoula Vo-Tech were compensated in accordance with the traditional teachers salary schedule. That schedule provided for salary increments based on additional experience as well as attainment of certain educational qualifications, which she enumerated. The issue raised by Mr. Scott in his appeal is the request that his salary be increased to reflect his completion of additional college credits. When this appeal was responded to at the Commissioner level Mr. Scott was requesting advancement for both his additional year of experience as well as completion of 15 college credits. Ms. Romney stated she would defer to Mr. Thiel in this matter, but she believed the requested remedy has been modified and the appellant now requests only the education based salary increment.

Prior to the settlement of the collective bargaining agreement that covers the instructional employees, all instructional employees at the Centers continued to receive the exact same wages that they received in 1988-89. Mr. Scott was no exception. Under



December 14-15, 1989

the negotiated agreement, employees salaries are driven off their 1988-89 salary. There is no provision under the newly-negotiated agreement to provide for additional salary enhancement by virtue of either experience or educational credit.

Ms. Romney stated as part of her investigation prior to recommending a resolution to the Commissioner, she discussed this matter with Dennis Lerum, Missoula Center Director. Mr. Lerum denied having created a legitimate expectation on the part of Mr. Scott for a salary increase if he completed 15 credits of college coursework. Ms. Romney stated she knows there are employees who have completed their master's degrees in the last year, and she expressed concern that Regents' decision in this appeal might have some precedential effect. Prior to the settlement of the contract it was the recommendation that this appeal be denied, and Ms. Romney stated she believed the Commissioner's decision is consistent with the contents of the newly negotiated agreement. Mr. Romney stated it was her recommendation that the Board uphold the Commissioner's decision and deny the appeal.

Mr. Thiel distributed copies of documents setting out the issue, facts, and conclusion in Mr. Scott's appeal (on file). The issue is Mr. Scott's contention that he was improperly placed on the pay scale for purposes of the transfer. In Ms. Romney's presentation, she stated among other things that there was no provision for this argument under the new contract, and that the case might be precedent setting. Mr. Thiel stated the case is not precedent setting. Two weeks ago he notified Ms. Romney of another employee who

December 14-15, 1989

was incorrectly transferred and that problem has been taken care of.

According to Mr. Thiel, the issue the Board needs to address is the employee's rights under the existing agreement that was in effect until July 1, 1989. Mr. Scott asked for approval of germane coursework, received approval from Dr. Lerum, the Board's agent at that time; took the courses and completed all paperwork for the courses. All required documentation was delivered, properly executed by June 19, 1989, prior to the expiration date of the existing collective bargaining agreement. That point is extremely important. Mr. Thiel cited other documents supporting Mr. Scott's contention that Dr. Lerum indicated to him that all coursework which was completed in time. that would be reflected in the transfer.

Mr. Thiel stated he believed the Board of Regents was responsible to correctly transfer faculty over to the University System reflecting their correct placement on the pay scale in existence on July 1, 1989. Mr. Scott's correct placement on that pay scale is W.E. + 45. If this appeal is denied on the basis that it is precedent setting, then faculty members' rights will be denied under Montana statutes. The argument centers on Mr. Scott's improper placement under the old, or then existing, agreement. The dollar amount is a \$360 adjustment to Mr. Scott's base salary. There was no official denial. Mr. Scott was not aware there was a problem until he received his first pay check as an employee of the Board of Regents.

Mr. Thiel concurred with Ms. Romney's assumption that Mr. Scott has withdrawn the portion of

December 14-15, 1989

his appeal requesting a salary adjustment for completion of a year of experience.

Mr. Thiel concluded his presentation with a brief review of the other documents submitted at the hearing (on file) in support of Mr. Scott's appeal of his placement on the pay matrix.

Ms. Romney spoke briefly in rebuttal on the distinction between the matter involving Carl Scott and the situation alluded to regarding another instructor. That other instructor was employed at the Great Falls Center; his salary was adjusted, but that was done because he was erroneously being paid less than his actual 1988-1989 salary. A correction was made to restore the employee's 1988-89 salary level. Mr. Scott is being paid the actual wage he was paid in 1988-89; he is asking for a salary enhancement as a result of completion of credits.

Chairman Redlin called for questions from the Regents. Hearing none, she noted it was her belief that in this period of transition the Regents had been more humane than the business world, and ought to be.

Regent Kaze asked if the Regents' agent had responded affirmatively to Mr. Scott's lane change. Mr. Thiel replied he did not believe there was a written exchange. The union's position was that the lane change information was submitted within the time lines of the existing agreement and no further exchange was needed. Regent Kaze questioned whether that was normal procedure; his understanding was that when faculty requested a lane change, the school district responded in writing, granting or denying the change. Mr. Thiel reiterated that in his belief Mr. Scott did what he was

December 14-15, 1989

required to do under the terms of the agreement in existence at the time. Questions as to when Mr. Scott would have received the pay raise under the old contract were asked and responded to by Mr. Thiel. Mr. Scott's intention in taking the course was to improve his ability to teach -- that is amply demonstrated in the letter submitted by Mr. Thiel to the Board.

Hearing no further discussion, Chairman Redlin stated it was her opinion the question at issue relates to the change in governance of the vocational-technical centers, and whether or not the assuming governance board can also assume provisions from the previous contract. She asked the pleasure of the Board.

Regent Kaze moved the Commissioner's decision be upheld, and the appeal denied. A roll call vote was requested. Regent Clouse voted no; Regents Kaze and Topel voted yes; Regents Lind and McCarthy abstained. The motion carried, and the appeal was denied.

#### Residency Appeals

Chief Counsel Schramm noted there are four residency appeals before the Board at this meeting. The number is unusually high; however, the campuses deal with hundreds of such appeals, and it is not alarming that this number are carried to the final administrative resolution available to the appellants.

#### Residency Appeal of Mahlon Manson

It was determined Mr. Manson was present, and would present testimony in his own behalf at the conclusion of Chief Counsel Schramm's presentation.

Dr. Schramm outlined the facts in the appeal as set out in the Commissioner's memorandum to

December 14-15, 1989

the Board dated December 7, 1989 (on file). Dr. Schramm stated this appeal appears to be a fairly clear situation of a Montana resident moving from the state and relinquishing his residency. He returned in August 1989, and is attempting to reestablish that residency. The campus determination, and that of the Commissioner, is that he will be eligible for in-state status for fee purposes in August 1990.

Dr. Schramm commented briefly on the Regents residency policy. There is no one determining factor; it is a total balancing of differing factors, with some weighing more heavily than others. In Mr. Manson's case, it was determined using the policy determinants, that he had relinquished in-state residency for fee purposes.

Dr. Schramm noted one ironic note in this appeal. Mr. Manson is a veteran, and prior to the recent change in Regents' policy to remain consistent with the change in statute adopted by the legislature, Mr. Manson would have qualified for in-state status under the veterans' fee waiver. He is one of the few veterans who was caught up in the only more restrictive component of the revision to the veterans fee waiver - that veterans must now comply with the 12-month residency requirement.

Mr. Manson reviewed the background of his appeal as set out in his letter to the University of Montana Admissions Office dated September 26, 1989 (on file). He also provided a chronological listing of actions he had taken to attempt to enroll at the University of Montana under the WICHE Undergraduate Exchange Program. On September 21, 1988 Mr. Manson

December 14-15, 1989

received his letter of acceptance in the undergraduate program. It was at this time he found he was classified as an out-of-state student for fee purposes because he voted in the presidential election in Oregon, and paid Oregon income taxes.

Mr. Manson explained the procedures he followed to bring his appeal to the Commissioner, and to the Board, and the research he had conducted on the components of Regents' policy that are used in determining residency. Mr. Manson noted he had initiated contact prior to the change in Regents' policy regarding veterans' fee waivers; he had licensed a car and voted in Oregon, but had owned property, and paid property taxes in Montana throughout his absence from the state. He also financed his car in Montana, and renewed his blasting licenses from the Montana Department of Labor and Industry yearly. Mr. Manson stated he felt he was and is a resident of Montana; his ties have never been severed; his is forty-one years of age and has lived in Montana since he was six. His only absence from Montana was the one year ten months employment period in Oregon, and three years military service.

Regents' asked if Mr. Manson was presently enrolled at the University. He replied he could not afford to start as he had planned in winter quarter with his present residency classification. He responded on income tax filings that he had filed income tax returns last year in Oregon; the year before he filed six months in Oregon and Montana, and will do the same this year. He explained he had always planned to live in Montana, and even if the job opportunity in Oregon had worked out

December 14-15, 1989

he would have returned to Montana. He registered to vote in Oregon because of school board elections which he felt were important to his children's education. Mr. Manson stated he did not consider himself a resident of Oregon while he lived there, and was not so considered by the people he worked with.

Hearing no further discussion, the Chair called for a motion.

Regent Lind moved the Commissioner's decision be upheld, and the appeal denied. The motion carried unanimously.

Residency Appeal of Elaine Porter

Chief Counsel Schramm reported Ms. Porter was not present. He explained Ms. Porter is applying for certification for the WAMI Program which requires 36 months residency instead of the standard 12 months. This appeal bears some similarity to the one just heard, in that Ms. Porter was a Montana resident who left the state to pursue a job opportunity in Iowa and was absent two years; returned to Montana, and is attempting to reestablish residency.

Dr. Schramm referenced the frustration evidenced in the appellant's letter included with the agenda material. However, once a resident relinquishes residency it must be reestablished in the same manner as any other non-resident. Ms. Porter, therefore, has been classified as a non-resident.

Dr. Schramm responded to Regents' questions, concluding it was his recommendation that the Commissioner's decision be upheld.

Regent Kaze commented it was his observation, after participating in such appeals for

December 14-15, 1989

some years, that many appellants state they have applied for residency at some point prior to commencement of the school year, but do not receive notification until what appears to be far beyond a reasonable time period. This is unrelated to the residency policy; however, Ms. Porter states she applied for WAMI certification in August but did not receive notification of rejection until November 24. He asked if something needs to be done on the campuses to shorten that timeframe.

Dr. Krause responded that when letters are received indicating student interest in admission into the WAMI program a packet of information is sent immediately from his office which includes all pertinent residency information.

Hearing no further discussion, Regent Kaze moved the Commissioner's decision be upheld, and the appeal denied. The motion carried unanimously.

Residency Appeal of Jennifer Henry

Chief Counsel Schramm determined Ms. Henry was present, and would speak on her own behalf at the conclusion of his review.

Dr. Schramm stated this is another instance of a Montana resident who left the state to work in another state, has returned and is now living with her parents on whom she is dependent, and is seeking in-state residency status for fee purposes.

Dr. Schramm referenced Regents' policy regarding domicile of a minor or unemancipated person, but stated it is the position of the Commissioner's Office that this section is not applicable to Ms. Henry because she is neither a minor nor unemancipated. She is an adult who has lived and worked away from home for



December 14-15, 1989

several years, and has voluntarily chosen to re-enter her family household.

Because of steps taken when Ms. Henry returned to Montana she will be eligible for in-state status for fee purposes in December 1989. At issue is whether her non-resident tuition would be refunded for the last quarter.

Ms. Henry reviewed the information contained in her letter of September 21, 1989 (on file) regarding her futile attempts to find employment in Montana, and her decision to return to school. She concluded with a recitation of the efforts made to comply with all the requirements of the Regents' residency policy. She questioned the necessity for such detail, if in the end nothing mattered other than that she had not been in the state for 12 consecutive months prior to application for admission to the System.

In response to Regents' questions, Dr. Schramm noted Ms. Henry will be eligible for in-state status next quarter.

Hearing no further questions, Regent McCarthy moved the Commissioner's decision be upheld, and the appeal denied. The motion carried unanimously.

Residency Appeal of Michele Simmons

Dr. Schramm determined Ms. Simmons was not present. He presented the facts in the appeal as outlined in the Commissioner's memorandum to the Board dated December 7, 1989. Ms. Simmons is seeking certification for the WAMI Program which requires 36 months residency. She graduated from Billings West High School in 1984 and from Brown University in May 1988. Since then she has been employed at Johns Hopkins School

December 14-15, 1989

of Medicine, Baltimore, Maryland.

Regents' residency policy provides that a person does not lose residency because of absence from Montana for purposes of schooling. However, since graduating in 1988 Ms. Brown has lived and worked in Maryland. She did vote in Montana by absentee ballot, but did not file a Montana income tax form on her out-of-state income. Ms. Brown is employed at a university but has attended only one class there so her continued absence from Montana is not for the purpose of post-secondary education as allowed by the policy. Dr. Schramm noted that he certainly believed the Commissioner's decision in this appeal was justified; however, there are circumstances which could have caused the decision to be made either way. Ms. Brown is seeking certification as a Montana resident to attend the University of Washington under the WAMI Program.

Regent McCarthy asked if Ms. Simmons would have been certified if she had applied for the WAMI Program while she was a student at Brown. Dr. Schramm replied she would have been certified without question if she had applied in May of 1988.

Regent Kaze questioned if employment in another state was, by itself, sufficient evidence of intent to establish residency in that state. Dr. Schramm replied that it probably was not. Regent Kaze then stated his belief that Ms. Simmons appeared to have made a very consistent effort to maintain Montana residency. Regent Lind concurred with that statement. Further, if she is denied Montana residency she is also declared ineligible to apply as a resident of any other state because of her efforts to maintain residency in

December 14-15, 1989

Montana. Regent Clouse also endorsed her work experience in Maryland as a practical use of her education thus far gained, and an appropriate step for her to take in her planned educational objective.

Chairman Redlin asked if there had not been occasions in the past when residency was not considered "broken" if the students left the state to pursue occupations relevant to their education. Dr. Schramm responded that was correct, as in the instance of internships.

Hearing no further discussion, Regent Lind moved the Commissioner's decision be overturned, and the appeal granted. The motion carried unanimously.

#### Enrollment Report

Dr. Phillip Brooks, Director of Institutional Research, presented the report entitled "Selected Enrollment Information for Public Higher Education Institutions in Montana" mailed with the agenda material. Prior to that presentation, he distributed an additional handout titled "Enrollment Information for the Montana University System, the Vocational-Technical System, and Public Community Colleges in Montana". The handout supplements the report sent with the agenda with the inclusion of graphs on enrollments in Montana community colleges and vocational-technical centers, and a graph relating births to enrollments.

Dr. Brooks reviewed the graphs contained in the handout, and the following page showing headcount enrollments. Those enrollments show declines at only two institutions - WMCUM and MCMST - and the largest increase at the University of Montana.

December 14-15, 1989

Dr. Brooks spent some time noting the trends evidenced in the "Comparison of HS Grads & Births YR + 18" graph. The birth line is actual data; the bottom line shows high school graduates. The years 1989 through 2005 is a projection based on that produced by WICHE approximately two years ago. Dr. Brooks elaborated on the trend this single graph reveals, noting birth rate is an important factor in predicting enrollments, but not the only factor. This graph shows only the anticipated pool of traditional eighteen year old students through the year 2005, and that that pool will decline in number.

Dr. Brooks responded to Regents and others questions on the projections, noting that he is most certain of the projection for the next two years; the farther out in time you project, the less certain the projection becomes.

Report on Montana Guaranteed Student Loan Program

William Lannan, Director of the Montana Guaranteed Student Loan Program, presented a status report on bringing the total distributive operation of the program to the Helena office. That phase in should be completed in 1990. Mr. Lannan reported the volume of the MGSL program in federal fiscal year October 1, 1988 through September 30, 1989 was slightly over \$44 million. The program presently employees approximately 26 persons, and anticipates hiring an additional 4-5 to complete the phase in.

Continuation of Commissioner's Report

Presidential Search Committees - University of Montana and Northern Montana College

Commissioner Krause presented his

December 14-15, 1989

recommended slate of members for the presidential search committees at NMC and UM. He noted his plan is to visit Northern Montana College on November 9, 1989, and the University of Montana on November 10, 1989, to hold organizational meetings of the search committees. The following search committee membership was approved for Northern Montana College:

FACULTY

Dr. Robert Christeck, Professor  
Science and Math

Mr. Mike Wojtowick, Professor  
Automotive and Mechanical Technology

Dr. Pat Tierney, Professor  
Education

Mrs. Jean Kampf, Instructor  
Nursing

STUDENTS

Heather Rouse - Chemistry  
Mike Pendergrass - Electronics

ADMINISTRATIVE STAFF

Bill Byars, Director  
Fiscal Affairs

PROFESSIONAL STAFF

Dr. Roger Barber, Chair (COMMITTEE CHAIRPERSON)  
Department of Business

SUPPORT STAFF

Joanna Sullivan

ALUMNI

Vicke Larson

December 14-15, 1989

FOUNDATION

Mr. Bob Bricker

LOCAL EXECUTIVE BOARD

Mr. Joe Lutz

REGENTS

Elsie Redlin  
Vickie Clouse

COMMUNITY REPRESENTATIVES

Mr. Murray Barkus  
Mr. Wilber Swenson

EX OFFICIO

Carrol Krause, Commissioner of Higher Education

On motion of Regent Kaze, the above Presidential Search and Screening Committee membership for Northern Montana College was approved.

Next Dr. Krause presented the proposed membership of the Presidential Search and Screening Committee for the University of Montana:

FACULTY

Dr. Jerry Fetz - Foreign Languages  
Dr. Thomas Power - Social Sciences  
Dr. Andrew Sheldon - Science  
Dr. Julie Codell - Art  
Dr. Maureen Fleming - Business

STUDENTS

Galen Hollenbaugh - Political Science  
Stefani Gray - Communications

ADMINISTRATIVE STAFF

Don Hjelmseth - Career Services

December 14-15, 1989

SUPPORT STAFF

Diane Norem - Financial Aid

DEAN

Martin Burke - Law (COMMITTEE CHAIRPERSON)

ALUMNI

William J. Beaman

FOUNDATION

Thomas H. Boone

Alternate:

Robert Kelly

COMMUNITY REPRESENTATIVES

Beverly Doyle  
Sue Talbot

WMC CAMPUS

Keith Parker - Dean of Faculty

DILLON COMMUNITY

Mr. Phil Blank

REGENTS

Jim Kaze  
Tom Topel  
Dennis Lind

EX OFFICIO

Carrol Krause - Commissioner of Higher Education

On motion of Regent Lind, the above membership of the University of Montana Presidential Search and Screening Committee was approved.

December 14-15, 1989

Council of Presidents

President Carpenter reported that Dr. Frank Kerins was recently elected President of the Northwest Association of Schools and Colleges, an honor worthy of note.

Dr. Carpenter also reported receipt of the decision of the arbitrator in the dismissal of a tenured faculty member which upheld the original decision of some five years ago. President Carpenter stated he was pleased with the decision, but especially wished to commend Dr. Schramm for the exceptionally helpful, careful assistance he rendered to EMC during this tedious process.

President Koch reported two significant events at the University of Montana in the past week. First, official notice was received that the University's twenty-fifth Rhodes Scholar was appointed. The recipient, Ms. Bridgett Clark, is a philosophy major originally from Grand Rapids, Michigan. Second, he wished to mention that the Grizzly football team recently went to the national semi-finals. While they were "rudely treated" on the football field, the eleven wins that the team assembled prior to that occurrence is the most in the institution's history in ninety years of football. That is worthy of note and commendation.

The Vocational-Technical Center Directors, Board of Public Education, Office of Public Instruction, and Faculty Association had no report.

The Montana Associated Students reported representatives had attended a meeting of the Education Commission of the 90's and had been provided information on how students will be able to participate and provide



December 14-15, 1989

information to the Commission during its study. The MAS also wished to express thanks to Dr. John Hutchinson for including students in the review of semi-finalists for the position of Commissioner of Higher Education. Students welcome the opportunity to participate in this important process.

The Vocational-Technical Student Association had no report.

Regular Agenda

On motion of Regent Clouse, the following items were approved:

- Item 65-100-R1289, Staff; University of Montana  
(Includes one post-retirement contract)
- Item 66-200-R1289, Staff; Montana State University
- Item 66-300-R1289, Staff; Agricultural Experiment Station
- Item 66-400-R1289, Staff; Cooperative Extension Service
- Item 66-500-R1289, Staff; Montana College of Mineral Science and Technology
- Item 66-600-R1289, Staff; Western Montana College of the University of Montana
- Item 66-700-R1289, Staff; Eastern Montana College  
(Includes one post-retirement contract)
- Item 66-800-R1289, Staff; Northern Montana College
- Item 66-900-R1289, Staff; Office of Commissioner of Higher Education (With Addendum)

The meeting adjourned at 11:50 a.m. The next regularly scheduled meeting of the Board of Regents will be held on January 25-26, 1990, on the Montana Tech campus in Butte, Montana.

