

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

DATE: December 11-12-13, 1991

LOCATION: Lewis & Clark Room  
Student Union Building  
Eastern Montana College  
Billings, Montana

REGENTS PRESENT: Mathers, Kaze, Boylan, Johnson, Topel, Rebish,  
Schwanke  
Commissioner of Higher Education John M. Hutchinson

REGENTS ABSENT: None

PRESIDENTS PRESENT: Dennison, Carpenter, Daehling, Malone, Norman  
Provost Easton;

PRESIDENTS ABSENT: None

DECEMBER 11, 1991  
Little Big Horn Community College  
Crow Agency, Montana  
1:00 p m. - 3:00 p m.

Regents, presidents of the six units, community college presidents, and vocational technical center directors met with presidents of the tribally controlled community colleges to discuss items of mutual interest among the units of the System and the tribally controlled community colleges. These informal meetings are scheduled at a minimum of once

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a year to provide opportunity for units of the System to discover ways to improve assistance to and communication with the tribally controlled community colleges.

MINUTES OF THURSDAY, DECEMBER 12, 1991

Chairman Mathers called the regular meeting of the Board of Regents to order in the Lewis & Clark Room, Student Union Building, on the campus of Eastern Montana College, Billings, Montana. Roll call was taken and it was determined a quorum was present.

CONSENT AGENDA

Chairman Mathers stated Regents have expressed a desire for more detailed discussion of the Consent Agenda. Various issues were raised, among them the Regents' desire that more information be provided with the staff items relating to percentage of federal funding of certain contracts, reasons for moving staff from classified status to Regents contract status, etc. Regent Topel expressed concern with Regents being asked to approve salary increases in the face of the major deficit facing the State of Montana. He suggested action on these items be held in abeyance until the conclusion of the Special Session of the Legislature scheduled in early January 1992, at which time a more accurate picture of the fiscal situation facing the System and the State should be known. Regent Topel recognized there may be arguments made that such action would be unfair, but stated it may be more unfair in the long term to spend dollars the System does not have.

Chairman Mathers noted many of the matters on the Consent Agenda now before the Board are simply corrections of errors in movement of the salaries approved earlier in the year. He asked for clarification of that understanding.

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President Malone, MSU, noted on the MSU staff item many of the matters presented are such corrections in titles, etc., and do not affect raises in any way. The ones that do affect raises are contractually either related to the general flow of new contracts that came out of the last Legislative session, or reflect persons going onto federal grants. These again are contractually bound. While understanding Regent Topel's logic, President Malone urged that be a "henceforth and future" course of action rather than being imposed on contracts based on past contractual arrangements.

Regent Topel concurred with that logic for those positions on federal money. His recommendation remains, however, that because the System may not have the money it anticipated having, salary increases be held in abeyance until conclusion of the Special Session.

After further discussion, it was noted by members of the Regents that it was difficult to determine the status of salaries listed on the Consent Agenda. There was not sufficient information to determine if the person was on federal funds, was a new hire, or were funded by grants and contracts, etc.

Chairman Mathers noted he had some problem with the discussion. The presidents are hired to run the units of the University System. If the Board does not have confidence in their ability to set salaries within the guidelines and parameters set by the Regents, and within their approved budgets, that would raise a different issue. He also questioned the wisdom of delaying action on such matters with no prior notice to the presidents that the "rules had changed." Chairman Mathers also raised the issue of whether the Regents have sufficient detailed knowledge to determine if individuals on the campuses deserve the raises proposed.

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Regent Topel noted his intent was not to determine individual salaries, hence his recommendation that the entire agenda be held in abeyance. That action would be a policy decision properly made by the Board, and does not infringe upon an administrator's decision of the worth of a particular employee.

Regent Johnson concurred with the statements of Chairman Mathers. He noted he did not believe any relief would be granted to the System by the action of the Special Session of the Legislature. He also believed the Board has the prerogative to direct the presidents to not grant future raises until the fiscal situation of the State is resolved. He did not, however, believe that action to be appropriate on this particular agenda. The presidents are in charge of the campuses; they will "sink or swim" with their decisions. Regent Johnson stated he had faith in the presidents' ability to judge what is occurring in Montana and in determining what they have to work with on their individual campuses. He did not want to interfere with that process "looking back." However, "looking forward" maybe some such policy decision should be invoked.

Regent Schwanke questioned that rationale. He asked how the Regents could in good conscience grant increases in salaries when there is a very real possibility of greater reductions in resources available throughout the System. He could not endorse granting the increases at this time.

President Dennison spoke to the salary negotiations now in process for the faculty at several of the units, and in particular spoke to that process at The University of Montana. Dollars appropriated by the Legislature to fund pay plan increases have been and will continue to be held in escrow awaiting conclusion of that good faith bargaining effort. When

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that agreement with the faculty is reached it will be brought to the Board for its approval. If the signal goes out now that faculty salaries are to be frozen by the Board, that creates a very difficult situation for him as President of The University of Montana, and probably creates the same situation at other units where agreement has not been reached through the bargaining process. If the Board is talking about increases outside of that collective bargaining process, President Dennison noted that is a different matter entirely.

Regent Schwanke stated personally he had no intention of undermining that process in any way. His remarks were directed to people outside of that process.

President Malone spoke to the persons he believed Regent Schwanke was addressing. MSU has a handful of persons that do appear to be simply getting an increase. These are cases however where someone is entering a responsibility area vacated by someone else. That will appear as an increase for the individual, but in actuality the position is staying pretty constant as to level of remuneration. President Malone noted he believed he understood the confusion expressed by Regent Kaze; he believed the System is moving towards segregation of these types of substantive issues from the mass of minor corrections submitted routinely by each of the campuses. Additional scrutiny is also now provided by Commissioner's staff so these questions can be answered in advance. These people on today's Consent Agenda are already performing the new responsibilities someone else has vacated. He urged the Board not to hold off approval of these submissions.

Regent Topel clarified that his proposal is not to freeze salaries for the biennium, but simply to delay action until conclusion of the Special Session of the Legislature, then revisit these recommendations.

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Regent Kaze reiterated also that under no circumstances did he intend to tell presidents how to run their campuses. However, when salary increases impact the entire System as they have on many occasions in the past - a salary increase at one unit may in fact impact salaries for similar jobs across the System - that becomes a systemwide issue. In his opinion, the question is should this Board of Regents make a policy statement about those kinds of increases for some period of time. If the Board does not begin now to state its concern and put in place a planning process for future action there will not be sufficient money to operate the System in the very immediate future. Potentially raises will be given under contractual obligations, but funding for those raises will come from increased tuitions, or the classroom or equipment budgets, or deferred maintenance.

Commissioner Hutchinson stated perhaps he could provide some counsel to the Board. In view of the difficult times in which the System finds itself this particular listing of staff items has probably had greater scrutiny than any set of staff items submitted in the past. Every instance that involves any increase in salary has been reviewed by the Commissioner with the appropriate president. Dr. Hutchinson stated the Board should know that he, and staff, are satisfied these are responsible actions. He stated it was clearly within the Board's purview to set policy relative to raises, and that is not a trivial issue. His concern has to do with when that policy is imposed. Regent Topel's suggestion that it be imposed effective with this list to some degree changes the rules under which the System has been operating. While understanding Regent Topel's argument that the System and the state are facing difficult times, there is a question of magnitude that needs to be examined. Culling out of this list

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those cases where there may truly be a gratuitous increase, the number is vanishingly small. In a University System that has thousands of employees and millions of dollars bedded in salary, in the grand scheme of things letting this set go through will probably not make a great deal of difference. If it is the intent or wish of the Board to put in place a freeze on non-bargaining salaries, Commissioner Hutchinson urged that be done effective after approval of this list. He cautioned the Board strongly against changing the rules on this particular set of staff items, and urged approval of the items on the Consent Agenda.

Chairman Mathers stated the issue the Board needs to decide is whether it wishes to consider the items on the Consent Agenda as submitted. That action could be accompanied by a motion stating there would be no increase in salaries within the System that would impact general fund appropriations until after conclusion of the Special Session of the Legislature.

Chairman Mathers suggested action be taken on the Consent Agenda at this time. He asked that before the close of the meeting this afternoon Chief Counsel Schramm draft a motion that encompasses Regent Topel's concerns that would give clear guidance to the presidents so that on-going labor negotiations are not negatively affected.

Regent Johnson then moved approval of the items on the Consent Agenda as follows:

Item 74-100-R1291,	<u>Staff; University of Montana</u>
Item 74-200-12991	<u>Staff; Montana State University</u>
Item 74-201-R1291,	<u>Post Retirement Contract, PROFESSOR GARY F. EVANS, Montana State University</u>
Item 74-202-R1291,	<u>Post Retirement Contract, PROFESSOR RICHARD J. ROSA, Montana State University</u>
Item 74-300-R1291,	<u>Staff; Agricultural Experiment Station</u>
Item 74-400-R1291,	<u>Staff; Cooperative Extension Service</u>
Item 74-500-R1291,	<u>Staff; Montana College of Mineral Science and Technology</u>

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Item 74-600-R1291, Staff; Western Montana College of The University of Montana  
Item 74-700-R1291, Staff; Eastern Montana College  
Item 74-800-R1291, Staff; Northern Montana College  
Item 74-900-R1291, Staff; Office of Commissioner of Higher Education  
Item 74-7500-R1291, Staff, Billings Vocational-Technical Center  
Item 74-8000-R1291, Staff, Butte Vocational-Technical Center  
Item 74-8500-R1291, Staff; Great Falls Vocational Technical Center  
Item 74-9000-R1291, Staff; Helena Vocational Technical Center  
Item 74-9500-R1291, Staff; Missoula Vocational Technical Center

A roll call vote was taken. Regents Mathers and Johnson voted yes. Regents Kaze, Topel, Rebish, Schwanke and Boylan voted no. The motion to approve the Consent Agenda failed.

Commissioner Hutchinson stated by failure to approve the Consent Agenda, the items listed are not approved. The Board now has before it the broader question of whether it wishes to impose a salary freeze, and if so, the parameters of that freeze need to be established.

Discussion was held on the situation that now exists on the campuses. There are instances where people are performing jobs for which they were hired and with this action they are placed in limbo.

Regent Topel noted he would favorably entertain a resubmission of the Consent Agenda that would correct the deficiencies noted by the presidents. He encouraged resubmission of a revised Consent Agenda to be considered by the Board at a later point in the meeting that would allow approval of contracts funded by other than general fund sources, were not new hires, were corrections of errors on previously submitted agendas, and/or were legitimate promotions to positions of additional responsibility where the person previously holding the position has retired or left the System.

Regent Kaze stated his understanding was that if the



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Board did what Regent Topel suggested, i e., entertained a motion that excluded the items he mentioned, what he was then hearing from the presidents was that everything on the individual Consent Agenda items would fit within his motion and none of those salaries would have to be frozen.

President Dennison stated that would be the case for The University of Montana. President Malone stated he would need to hear the motion in order to fully understand it. He could supply to the Board a statement explaining the changes on each position listed on MUS's staff item if that is what the Board wishes.

Regent Kaze stated he would be more interested in having those positions identified that represent raises that will cost general fund dollars. The question as he understood it is whether those particular raises should be subject to a freeze because of the issues raised.

Chairman Mathers expressed some confusion as to what exactly the presidents were being asked to do. Regent Topel stated his concern was not addressed to new hires, nor with respect to promotions where the person being replaced is no longer being paid - there is no increased impact on general fund. Regent Topel stated he was not concerned with raises being funded with federal or grant dollars so long as there is an understanding that when those dollars are gone, the System is not locked in to that particular salary. Those categories are not the ones with which he is concerned. Regent Topel stated he would be willing to vote for approval of a revised Consent Agenda at this meeting that was limited to those particular individuals. He could not speak for the other Regents, but personally he would be delighted to vote for such a Consent Agenda.

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Seeking additional clarification, Commissioner Hutchinson proposed two scenarios. His understanding was that Regent Topel had no problem with new hires, nor with positions funded from other than general fund dollars. What, under these guidelines, then would occur if a person in a department applies for a department chair position that is open, secures the chair position, and is given a raise as a result. Is that raise appropriate under the criteria proposed by Regent Topel?

Regent Topel responded he would vote for approval in that instance if the person formerly in the position is not being paid the increase to be given to the person now taking that job.

Chairman Mathers stated what he understood Regent Topel to be saying is that if someone is hired from outside the System as a result of a national search, that person can be given a raise. If someone is hired from outside of the System, that person can be given a raise. A person from within the System, however, who moves up is not entitled to that same raise. He/she can only receive what was paid to the prior person holding the position was paid. Yet had someone from the East Coast been hired, a substantial increase could be paid. Chairman Mathers stated to him that appeared to be discrimination against people within the System who had an opportunity to improve their situation by moving up. He believed that would be unfair.

Regent Topel stated he would be willing to look at those on an individual basis as exceptions.

Posing the second scenario, Commissioner Hutchinson asked what would occur if an individual holding a master's degree completes work on a doctoral degree and is given a raise that sometimes in fact has been held as an incentive to complete that terminal degree. The individual would show on

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the staff item as receiving a raise with no change in responsibility. Regent Topel replied that would cause him a problem because he believed a strong argument could be made that other persons holding positions with no change in responsibility would be just as entitled to a raise as the individual obtaining the terminal degree.

Commissioner Hutchinson stated then following up on that, the individual who received the terminal degree, and whose salary is below those of comparable level in the department, that person is discriminated against.

Regent Topel responded yes, for this meeting. That does not mean when the Board next meets in January 1992 this could not be altered.

Commissioner Hutchinson noted he would counsel the Board that he believed that is a very unwise position to take.

President Malone noted there are at least two people on the MSU staff item that have signed letters of long standing that state if they complete their doctoral degree they will be given the salary indicated on the staff item. Those are legal documents. If that is not a problem, and if there is no problem with a person receiving a raise by being brought to the level of someone who previously held the same position, and there is no problem with new hires on grants and contracts, then President Malone stated he believed MSU was pretty well free to start from a clean slate.

Regent Johnson stated he still believed it would be better to impose whatever restraints the Board wished to impose on raises on a prospective basis "from this day forward," rather than going back through the Consent Agenda before the Board at this meeting. He noted he had no particular faith that anything will be better after the Special Session.

Regent Topel stated his concern is that he does not

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wish to send a message to the legislature just prior to the Special Session that this Board is conducting business as usual. Giving the same raises he would have voted for if the deficit facing the entire state had not occurred was, in Regent Topel's mind, giving that message to the public and the Legislature. Secondly, Regent Topel asked that to the extent he voted for salary increases now, thereby increasing the base for this year, what will happen when those dollars are not available to address the problems of this fiscal year, and are not available next fiscal year yet the fixed increased expense has been established. He asked that others who voted "no" on the Consent Agenda speak to whether they wish to reconsider some portions of the agenda, and if so, under what circumstances.

Regent Schwanke stated he would be willing to reconsider a Consent Agenda along the lines proposed by Regent Topel. He did not believe the Regents should be perceived as spending money they do not have.

Regent Kaze stated he believed some of the parameters have been defined. While they may not be the best in the world, he believed they are workable. He would also be willing to entertain a motion to reconsider the Consent Agenda that includes those positions which are new hires and promotions as replacements as outlined.

Commissioner Hutchinson suggested the best course of action would be to allow Chief Counsel Schramm time to put together a motion encompassing the matters discussed and the parameters set out for the Board's consideration at a later point in the meeting as suggested earlier. Chairman Mathers so ordered.

The Board will reconvene following committee meetings to reconsider it's action on the Consent Agenda at

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3:30 this afternoon, just prior to convening in executive session. Chief Counsel Schramm will prepare a motion for the Board's consideration.

Clarification was sought and obtained at this point that the salary increases on the Consent Agenda for the vocational technical centers, which are there for informational purposes only, are not affected by the Board's action today. Those increases were approved by vote of this Board when the collective bargaining agreement was ratified and approved by the Board.

The regular Board of Regents meeting recessed at this point. Concurrent committee meetings were held of the Administrative, Academic & Student Affairs, and Budget Committees.

CONTINUATION OF DISCUSSION OF CONSENT AGENDA

Chief Counsel Schramm explained the rationale used to develop the proposed motion for reconsideration of items on the Consent Agenda. The proposed motion, with comments by Dr. Schramm, was as follows:

I. With regard to items listed on the Consent Agenda for December 12, 1991, the following portions are approved and none other:

- 1) Resignations, terminations, title changes, and leaves of absence including sabbaticals.

(Dr. Schramm noted those were meant to be changes that have no salary implications. Dr. Schramm suggested those should include tenure status changes; there were also some persons moving from 1/2 FTE to 1 FTE at the same rate; salary decreases were also listed which need to be considered.)

- 2) Salary increases funded by non-general fund monies.

(Dr. Schramm cautioned this would be troublesome if this motion remains in effect for several months

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because those on grants and contracts would be eligible for salary increases and those on general fund would not. In the early 1970's this identical situation led to introduction of the state pay plan.)

3. Salary increases granted pursuant to collective bargaining agreements previously approved by the Board.

(Case in point - the vocational technical salary increases submitted on today's agenda for informational purposes - previously approved by ratification and approval of collective bargaining agreement.)

4. Salaries of persons newly hired from outside the hiring unit or center.

5. Salary increases for persons promoted from within the unit or center to an already existing position provided the new salary does not exceed either the salary previously paid to the prior occupant of the position, or the salary advertised in a public search.

(Prohibits penalizing internal candidates. If there is no public search, under this section the successful candidate would be restricted to the salary paid the incumbent.)

- 6) Salary increases granted to persons for educational or vocational attainment which was undertaken in expectation of a salary increase.

(Addresses Commissioner's concern; found in faculty handbooks across the System, and in every collective bargaining agreement. Without this provision persons obtaining advanced or terminal degrees on non-bargaining campuses would be treated differently than those on bargaining campuses.)

- 7) Salary increases for persons already being paid at the increased rate, but for which submission to the Board was delayed by campus error or omission.

(This provision is a "catch-all." Discussion could center on who should be penalized through delayed submission to the Board.)

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II. At this time the above criteria apply only to the consent agenda of 12-12-91, and the Board will reexamine the issue at its next meeting on January 30 and 31, 1992. The Board recognizes that evaluating salaries under the aforementioned criteria may, in the long run, create inequities. Therefore, this motion should not be construed as a future commitment by the Board to approve increases that meet the above criteria or disapprove salaries not meeting the criteria.

(This is intended to place on notice that the issue of salaries is of great concern to the Board. However, no final decisions can be made until the special session of the legislature is completed.)

III. Nothing herein waives the Regents' statutory or constitutional authority to approve or disapprove salary increases and this shall not be construed as granting any president, director, or other administrator the authority to grant an increase without the approval of the Board of Regents.

(Dr. Schramm noted he believed some of the frustration expressed by the Board in the discussion held this morning was caused in part by the acknowledgement by the Commissioner's office and the campuses that the Board is the final authority in salary setting. But every time the Board has a problem with a salary item or set of items, there seems to be a host of reasons presented why the Board can not exert the authority all assert it has. It creates at least the impression that lip service is paid to the Board's authority in this matter, but does not really recognize that authority. Section III simply reasserts the authority the Board has, but also puts the campuses on notice that when salary offers are made, more care should be taken to include notice that the offer is contingent on approval by the Board of Regents. It will mean more work for the Board if the Board wishes to take this seriously to assure approval can be obtained expeditiously when such action is required.)

Discussion was held on sections of the proposed motion, and clarification provided on present practice. Salaries of some positions are discussed with the Commissioner

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prior to offers being made; all carry the proviso that they are subject to approval by the Board of Regents. Referencing the salary increases given last to administrators, those were developed within the parameters established by and discussed with the Board before they were made. It was explained that there are occasions, particularly with hiring of faculty, where persons are in the classroom and are working before they are approved by the Board. This occurs primarily because of the spacing of meetings of the Board.

Regent Kaze stated that the frustration of the Board as explained in Dr. Schramm's presentation of the motion is particularly his own. He believed it incumbent on the Board to figure out a way that it has its decision making input in the net process without impinging on the use of a consent agenda. There should be a degree of parameter that the Board has input into, and within those parameters, the decisions should be left to the campus presidents. When the Consent Agenda is brought to the Board, the Board then relies on the Commissioner's staff that those items are within the parameters set by the governing board. He believed that to be a policy decision which should not be abrogated. Regent Kaze reiterated statements he had made over the years he has been on the Board that the Board should not meddle in minutia. At the same time, he believed it to be incumbent on the individual members of the Board, under the special circumstances that now exist in Montana, to exercise all of the authority the Constitution has given to members of the Board. It is important that this Board develop those parameters.

Regent Johnson concurred, noting that he endorsed President Carpenter's statement made earlier in the meeting that the Board must tell the presidents what it wishes them to do, and then they will do it or suffer the consequences. He



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noted that was part of his discomfort in this morning's discussion of the Consent Agenda - the Board should tell the presidents what they are expected to do before they are judged for not complying.

President Malone concurred with statements of Regent Kaze. He explained his understanding of the direction given at the last meeting was that submissions on the Consent Agenda would be regularly reviewed by Commissioner's staff. A step was taken in that direction and supplements to the staff items explaining any perceived difference or irregularity were submitted to the Commissioner and presented to the Regents with the agenda material. Exceptions can and should be explained in advance; campuses of their own volition see the need for changes in the submissions.

Regent Kaze noted he shared the concern expressed earlier concerning putting a temporary moratorium on salary increases. He did support that concept. With some modifications, he could support the motion presented by Dr. Schramm.

Discussion was then held on the proposed motion. Two points were stressed: (1) The method of submission of staff items should not be used as a mechanism for creation of new positions; and (2) the period covered by the motion includes the submissions on today's Consent Agenda through January 30, 1992. Dr. Schramm noted that technically the proposed motion covers only the matters submitted on the December 12, 1992 Consent Agenda.

It was agreed separate motions would be considered on each of the three main sections of the proposed motion, and the seven subsections of Section I.

Regent Topel moved approval of Section I, Subsection 1) (including the additions mentioned by Dr. Schramm in his presentation of the motion) as follows:

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I. With regard to items listed on the Consent Agenda for December 12, 1991, the following portions are approved and none other:

1) Resignations, terminations, title changes, and leaves of absence including sabbaticals.

The motion carried.

On motion of Regent Topel, Subsection 2) was approved as follows:

2) Salary increases funded by non-general fund monies.

On motion of Regent Topel, Subsection 3) was approved as follows:

3. Salary increases granted pursuant to collective bargaining agreements previously approved by the Board.

On motion of Regent Topel, Subsection 4) was approved as follows:

4. Salaries of persons newly hired from outside the hiring unit or center.

On motion of Regent Topel, Subsection 5), including the caveat against new positions, was approved as follows:

5. Salary increases for persons promoted from within the unit or center to an already existing position provided the new salary does not exceed either the salary previously paid to the prior occupant of the position, or the salary advertised in a public search.

On motion of Regent Topel, Subsection 6) was approved as follows, with Regent Topel voting no:

6) Salary increases granted to persons for educational or vocational attainment which was undertaken in expectation of a salary increase.

On motion of Regent Topel, Subsection 7) was approved as follows:

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- 7) Salary increases for persons already being paid at the increased rate, but for which submission to the Board was delayed by campus error or omission.

(This provision is a "catch-all." Discussion could center on who should be penalized through delayed submission to the Board.)

On motion of Regent Kaze, Section II was approved as follows:

- II. At this time the above criteria apply only to the consent agenda of 12-12-91, and the Board will reexamine the issue at its next meeting on January 30 and 31, 1992. The Board recognizes that evaluating salaries under the aforementioned criteria may, in the long run, create inequities. Therefore, this motion should not be construed as a future commitment by the Board to approve increases that meet the above criteria or disapprove salaries not meeting the criteria.

On motion of Regent Kaze, Section III was approved as follows:

- III. Nothing herein waives the Regents' statutory or constitutional authority to approve or disapprove salary increases and this shall not be construed as granting any president, director, or other administrator the authority to grant an increase without the approval of the Board of Regents.

Chairman Mathers noted for the record that approval of the above motion constitutes approval of the portions of the Consent Agenda of December 12, 1991, that meet the criteria in the motion. However, it is necessary to reconsider the action taken earlier in the meeting wherein a motion to approve the Consent Agenda failed.

Chairman Mathers called for a motion to reconsider the failed motion, noting a member of the prevailing side must make such a motion.

Regent Topel then moved approval of the individual items on the December 12, 1991 Consent Agenda which meet the criteria outlined in the motion voted on by section above. The

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motion carried unanimously.

It was agreed the campuses will abstract any items requiring additional information submitted on future Consent Agendas.

The regular meeting of the Board of Regents recessed at 4:35 p m. to reconvene on Friday, December 13, 1991 at 9:30 a m. in the same location.

#### Minutes of Friday, December 13, 1991

The Board of Regents attended a breakfast sponsored by the Billings Vocational-Technical Center at 7:30 a m., followed by a tour of the facility.

Chairman Mathers called the regular meeting of the Board of Regents back to order at 9:35 a m. with the same members present.

Chairman Mathers called for additions or corrections to the minutes of the previous meetings. Hearing none, the minutes of the October 31-November 1, 1991 meeting; November 14, 1991 Special Call Meeting; and December 3, 1991 Conference Call Meeting were ordered approved as mailed.

#### Committee Reports

##### Academic & Student Affairs Committee Report

##### Announcements

Regent Kaze, Chairman of the Committee, reported Dr. David Toppen reported the EPSCoR program has been rejected by the National Science Foundation. An effort will be made to resubmit the proposal for funding, attempting to supply a greater statewide effort.

Receipt of WICHE grants to conduct workshops on ethnic diversity was reported. While this was previously reported as a joint North Dakota/Montana effort with WICHE and the Ford Foundation, North Dakota has dropped out of the project. Another state may link into the project at a later date.

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Two-Year Institutions Curriculum Items

Action Agenda

Regent Kaze reported the following items on the action agenda were reviewed and are recommended by the Committee for approval.

On motion of Regent Kaze, Item 73-7501-R0991, Approval of Proposal to Convert the Approved Two-Year Certificate in Automotive Technology to an Associate of Applied Science Degree in Automotive Technology; Billings Vocational-Technical Center was approved.

Regent Kaze reported Item 73-7502-R0991, Approval of Proposal to Convert the Approved Two-Year Certificate in Secretarial Science to an Associate of Applied Science Degree in Secretarial Science; Billings Vocational-Technical Center is actually the consolidation of three previous certificate programs. He moved approval of the item. The motion carried.

Item 73-9501-R0991, Approval of Proposal to Convert the Approved Two-Year Certificates in Medical Secretarial Technology and Medical Transcription to an Associate of Applied Science Degree in Medical Office Technology; Missoula Vocational-Technical Center, is also a consolidation of certificate programs. Regent Kaze moved the item be approved. The motion carried.

FOUR YEAR INSTITUTIONS CURRICULUM ITEMS

Action Agenda:

Regent Kaze reported a lengthy discussion was held on Item 73-202-R1191, Authorization to Offer Master's/ Doctoral Program in Adult Education in Great Falls; Montana State University. At the conclusion of the Committee's discussion, MSU representatives met with representatives of the Commissioner's office in an attempt to work out issues raised in the Committee meeting. It is the recommendation of the

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Committee that there be a deferral of the decision on this item, with a directive to the Commissioner's office and to Montana State University to analyze all available funding options utilizing fiscal officers at the institutional and Commissioner's office level, and to return a recommendation to the Committee at a future meeting. No action is requested on Item 73-202-R1191 at this time.

#### ACADEMIC & STUDENT AFFAIRS COMMITTEE ITEMS

##### Action Agenda:

Regent Kaze reported Item 42-002-R1283, College Preparatory Program; Montana University System (REVISED) proposes a change in current Board policy which would allow campuses to grant discretionary exemptions for in-state applicants who have not completed the College Preparatory Program to 10% of the first-time, full-time students through 1994, decreasing to 5% thereafter. Rationale for the request is contained in Dr. Toppen's memorandum to the Board dated December 4, 1991 (on file), and was reviewed and discussed by the Committee. The requested revision in part reflects a sensitivity to small school districts' inability to offer the complete program.

Dr. Toppen responded to Regents' questions concerning the revision, noting the request comes from Admissions Officers who have been very concerned about the ability of various school districts to accommodate changes in the program. It provides a breathing space for those schools, keeping in place however, the target of reducing exemptions to 5%.

In response to a question from Regent Topel, discussion was held on whether it would be advantageous to defer action on the item until statistical information could be gathered on whether the people seeking the exemptions are in

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fact from small rural schools where the program offerings are not complete. Dr. Toppen responded that while that information could certainly be useful, applications are being processed by the institutions at this time, and the exemptions are being spent. He urged action on the item at this meeting.

At the conclusion of the discussion, Regent Kaze moved approval of Item 42-002-R1283. The motion carried.

Regent Kaze reported Item 42-004-R0384, Montana Associated Students; Montana University System (REVISED) simply allows incorporation into the Montana Associated Students organization representatives from the vocational-technical centers and community colleges. The structure and voting mechanism appeared fair and equitable to the Committee. The item is recommended for approval. Regent Kaze so moved. The motion carried.

DISCUSSION ITEMS; REPORTS; OTHER

Northern Montana College: Report on implementation of general science option in education master's program

Regent Kaze reported the Committee received a report on implementation of the general science option in education master's program at Northern Montana College. He noted that when the general science option in the M Ed. was approved, specific staff recommendations on areas NMC should address were made part of the approval. To assure the Board, through the Committee, was informed on Northern's compliance, Dr. Toppen provided today's report. The report indicates NMC has accepted and embraced all the recommendations, and moving toward implementation of the option in Summer 1992. The report is informational. No action is required.

Inventory of Montana University System Offerings in the Great Falls Area

Regent Kaze reported the inventory of offerings in the Great Falls area (on file) was presented to the Committee,

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and provides comprehensive information for both staff and Regents to respond to questions on how and by whom that area is served. It was noted the System hears consistently that Great Falls is the most underserved area in the state in higher education offerings from the public education standpoint. The inventory shows there are a great number of course offerings, and provides a base of information not previously readily available. Eastern Montana College, The University of Montana, Northern Montana College, and Montana State University all offer courses in the Great Falls area, and in some cases, programs. The report does not deal with costs of the offerings, and that might be examined in the future.

Report and Discussion of Student Health Insurance

Regent Kaze reported the Committee discussed availability of student health service, and student health insurance - two different issues - at both units of the System and at the vo-tech centers. A history of those two matters was provided to the Committee by Mr. David Evenson, the System's Director of Benefits. It was reported that generally vo-tech students have not been willing to pay a mandatory student health fee. Vo-tech students were offered the opportunity in Missoula to participate in UM's health service in 1988. It was voluntary; when the time came to sign up and pay the fee, the low number of students willing to participate resulted in the program's discontinuance.

Availability of student health insurance plans for vocational-technical students was also discussed. Costs of insurance students pay at the various institutions was provided, and the mandatory/optional nature of the differing offerings. Three hand-outs were presented to the Committee and to the Board (on file). Those were (1) Montana University System MSAL VTC - Participation in the University of Montana



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Student Health Service; (2) MUS Student Health Insurance Program; and (3) Vocational-Technical Center Student Coverage by Worker's Compensation. Premiums and coverage varies greatly from unit to unit. None of those kinds of coverages are presently available to the vo-tech students. The issue of bidding out offerings of health insurance across the System was discussed. It is an extremely complicated issue, in part because of the widely varying offerings of health care at different units. Balancing health care costs and offerings is a difficult process.

#### Budget Committee Report

Regent Topel noted that without objection he would present and discuss the following five items (numbers 3 through 7 on the published agenda) before presenting the items related to the computer fee reports. Each item provides a plan for expenditure of reverted appropriation for the various units of the System and the vocational technical system.

Regent Topel noted Regents Policy 901.6 established policy pursuant to HB 454 of the 52nd Legislature which allows University System unexpended general fund appropriations to revert to an account held by the Board of Regents instead of reverting to the State general fund. These funds may then be spent by each campus according to a long-term plan for major and deferred maintenance expenditures and equipment or fixed asset purchases which has been approved by the Board of Regents. The reversion amounts are not large, but will be welcome additions to future budgets.

Hearing no discussion or questions, Regent Topel moved approval of the following items:

Item 74-101-R1291, Long Term Plan for Expenditure of Reverted Appropriation; University of Montana/Forestry Conservation and Experiment Station; Montana University System

Item 74-205-R1291, Long Term Plan for Expenditure of Reverted Appropriation; Montana State University; Montana University System

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Item 74-501-R1291, Long Term Plan for Expenditure of Reverted Appropriation; Montana Tech/ Bureau of Mines; Montana University System

Item 74-8501-R1291, Long Term Plan for Expenditure of Reverted Appropriation; Great Falls Vocational Technical Center; Montana Vocational Technical System

Item 74-9502-R1291, Long Term Plan for Expenditure of Reverted Appropriation; Missoula Vocational Technical Center; Montana Vocational Technical System

The motion carried unanimously.

Regent Topel next reviewed the first two items on the Budget Committee agenda, Item 74-001-R1291, Computer Fee Report; Montana University System and Item 74-7001-R1291, Computer Fee Report; Montana Vocational Technical System. He explained each student at the units of the System and at the vo-tech centers is assessed a per-credit computer fee. These funds are placed in a separate plant fund and can be used only for computer acquisitions and operations in compliance with appropriate Board policy. The reports contained in the items provide expenditure of receipts of those fees by year through the current year, and the current aggregate balance for each unit and the System. The computer fee accounts can be carried over from year to year, or can be zeroed out in a particular year, but a unit cannot spend beyond the amount in the account. The reports are for informational purposes, with no action required.

Next Regent Topel presented Item 74-3001-R1291, Increase in Tuition and Fees Effective Winter Quarter 1992; Flathead Valley Community College. At its November 1991 meeting, FVCC's local Board of Trustees approved an increase of \$1.25 per credit for in-district students, \$3.50 per credit for out-of-district students, and \$3.25 per credit for out-of-state students, effective winter quarter. The revenues raised will

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be used to off-set the recession amount and the budget shortfalls resulting from I 105 limitations which continues to be a problem at that institution.

Regent Topel noted initially the students reacted negatively to the proposed tuition increases. After meeting with members of the College's administration and reviewing budget, student now support the proposed increases. The Budget Committee recommends approval.

Hearing no discussion, Regent Topel moved that Item 74-3001-R1291 be approved. The motion carried.

Regent Topel next reviewed Item 74-9501-R1291, Authorization to Increase the Student Government Fee from \$3.00 to \$5.00 per semester; Missoula Vocational Technical Center. The fee was initiated by the students prior to the Board of Regents decision to increase tuition. The increase was requested to establish an emergency aid fund which could be made available to MVTC students on a short-term, interest-free basis. Collection of the account will be handled by MVTC administration; if the fund grows large enough, funds will be used as an endowment for scholarships. The Budget Committee recommended the item be approved. Regent Topel so moved. The motion carried.

Regent Kaze reported the final item on the Budget Committee Agenda, Item 3-004-R1273, Student fee deferment; Montana University System (REVISED), is a modification to the existing student fee deferment policy. Current policy provides students can pay tuition in three installments. The proposed revision arose out of a discussion by the Board at a previous meeting. The intention of the revision is to allow campuses to select one of two payment options. The new plan would allow students to pay tuition in four installments, rather than the single three-installment plan now available. Each campus would have the option to adopt the most suitable payment plan.

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Only Eastern Montana College has indicated it would go with the four-payment plan if the item is approved. Regent Topel noted while this option was proposed as a result of the Board's decision to adopt the surcharge, it was his understanding that regardless of the final decision on the surcharge, this is a desirable policy decision.

Regent Kaze asked if a decision to elect alternative 1 or 2 was a permanent decision, and was told it was not. The election of either alternative can be changed as the campus feels the need for change. In response to a question from Regent Schwanke, President Carpenter reported on the involvement of student government in development of the proposed revision. Students at EMC are in favor of having the alternatives.

Hearing no further discussion, Regent Topel moved Item 3-004-R1273 be approved. The motion carried.

#### Administrative Committee Report

#### Capital Construction Agenda

Chairman Mathers noted each of the following items was discussed in Committee, and all are recommended for approval:

Item 74-201-R1291, Authorization of General Fund Deferred Maintenance Allocation to Improve Campus Steam and Condensate Distribution; Montana State University

Item 74-202-R1291, Authorization to Improve Campus Steam Distribution System; Montana State University

Chairman Mathers reported the two items above were considered concurrently. Memoranda to the Board and to Dr. Hutchinson (dated December 9, 1991 and December 3, 1991, respectively) (on file) were presented by Mr. William Lannan explaining the financing of the project.

Item 74-201-R1291 provides the necessary assignment by the Board of Regents of MUS's deferred maintenance allocation of \$195,328 to the campus steam distribution/

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condensate return system improvement project. Approval of this item allows MSU's entire deferred maintenance allocation provided by the Board of Regents to be expended on this project. HB 5 requires the assignment by the Board of Regents of these funds.

Item 74-202-R1291 provides authorization for MSU to expend \$63,552 on the steam distribution system project to complete Phase II, Auxiliary Services portion of the project and includes improvements that serve a section of Hedges and Roskie Residence Halls. The Phase II, Auxiliary Services portion will be financed with funds from auxiliary operations revenue in excess of debt service obligations. MCA 20-25-301 requires projects of this type be authorized by the Board of Regents.

On motion of Regent Boylan, Item 74-201-R1291 and Item 74-202-R1291 were approved.

Item 74-203-R1291, Authorization to grant a time-limited non-revocable permit to Larry Lippon (Lippon) and Video Lottery Technologies, Inc. (VLT) to use an access drive on the MSU campus and, if necessary in the future, a 35 foot easement for the establishment of a permanent private access drive to the Lippon/VLT properties; Montana State University was reviewed by President Malone. The access agreement and maps showing location of the access road were included with the item. The agreement is mutually acceptable to Mr. Lippon and MSU.

On motion of Regent Boylan, Item 74-203-R1291 was approved. Regent Topel abstained from voting on this item citing a conflict of interest.

Item 74-204-R1291, Authorization to Renovate the Second Floor of Culbertson Hall; Montana State University was explained to be an on-going renovation project that converts a

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dormitory building to auxiliary offices. The estimated cost of this project is \$250,000, and will be financed with rental and overhead revenues from research grants. On motion of Regent Boylan, the item was approved.

Item 74-701-R1291, Authorization to Replace Windows in Rimrock Hall; Eastern Montana College provides authorization to replace the windows in Rimrock Hall and to request appointment of an architect through the Department of Architecture and Engineering. The windows must be replaced because of structural problems. This project will be done in phases over a two-year period. On motion of Regent Boylan, the item was approved.

Cogeneration Proposals: University of Montana; Montana State University; Montana College of Mineral Science and Technology

Chairman Mathers reported the Administrative Committee heard presentations on the cogeneration proposals at the three units listed above. Butte Power Partners presented the proposal for Montana Tech. Lengthy discussion was also held on the status of development of cogeneration proposals at The University of Montana and Montana State University. The Chairman noted if the program goes on-line as outlined it would be of great benefit to units of the University System and the State of Montana. The amount that could be saved is in the millions of dollars.

Chairman Mathers noted, however, that at this time there are approximately 107 different companies making these proposals to Montana Power. L & S Corporation is working on a proposal with Montana State University; Intercoast Energy Company is working with The University of Montana; and Butte Power Partners with Montana Tech. The full Board will be kept apprised as the projects move forward. There will be authorizations requested of the Board for approval of letters

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of intent and other documents needed to keep the three units of the System in future negotiations for supplying power to Montana Power Company under its request for proposal for the cogeneration project.

Chairman Mathers referenced discussion held and approvals to proceed given on these projects at the last regular meeting of the Board.

President Dennison distributed copies of a memorandum to the Board dated December 11, 1991 (on file) which explained the differences between the Regent Item and the final proposed Letter of Intent and Site and Steam Sales Agreement. He added that the requested approval to sign letters of intent simply authorizes the institutions to work with the private companies to submit proposal to Montana Power.

President Malone, MSU, noted a letter of intent for MSU's cogeneration proposal has been drafted by Chief Counsel Schramm and Vice President Isch. MSU is looking at a site for its proposed plant just west of 19th Street. A packet of information on MSU's proposal will be provided to the Board at a future meeting. Copies of the cogeneration project at Montana Tech prepared by Butte Power Partners were distributed to all Board members.

Hearing no further questions or discussion, Chairman Mathers called for a motion on Item 74-101-R1291, Authorization to Execute a Cogeneration Plant Development Agreement and a Letter of Intent (amended copies) with Intercoast Energy Company for the Development of a Cogeneration Facility; The University of Montana. Regent Boylan moved the item be approved. The motion carried.

Policy Items

Action Agenda:

Chairman Mathers stated that without objection it is the Committee's recommendation that action on Item 73-001-R0991, Athletic Coaches; Multi-Year Contracts; Montana

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University System be indefinitely postponed.

Chairman Mathers noted Item 74-400-R1291, Appointment of the Fire Services Training Advisory Council; Montana State University was brought forward in accordance with MCA 2-15-1519, which requires the Board of Regents to appoint a fire services advisory council to work with the director of the fire service training school. The item approves the appointment of Jim Lofftus, Ken Bruwelheide, Dean Glover, and Bruce Suenran to four years terms on the Council. On motion of Regent Boylan, the item was approved.

Office Reorganization - Office of Commissioner of Higher Education was presented as an informational item by Commissioner Hutchinson. A corrected copy of the organization chart was distributed, replacing the one sent with the agenda material. Organization of the OCHE has been the prerogative of the Commissioner. Commissioner Hutchinson noted most of the operation in the Commissioner's office is sound and has been functioning very well. There were some concerns brought to Dr. Hutchinson when he moved into the position of Commissioner. There were some unclear reporting lines; some blurring of key functions; too many people reported directly to the Commissioner. Creating a somewhat more hierarcheal structure will provide some relief. Dr. Hutchinson noted also he felt there was too little responsibility vested in key people, particular the Deputy Commissioner for Academic Affairs.

The proposed revision establishes four divisions in OCHE. The first brings together the academic and vocational-technical arenas in what is now called the "Division of Academic, Technical and Student Affairs" jointly overseen by David Toppen and Brady Vardemann. The Division of Fiscal Affairs remains under Jack Noble's able leadership. A new division called the "Division of Labor Relations, Personnel and Benefits" has been created and brings all those functions together under Rod Sundsted. The Legal Division remains with LeRoy Schramm as Chief Legal Counsel.



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One other change proposed is the title "Deputy Commissioner." Dr. Hutchinson stated he wanted to have nomenclature more consistent with the academic arena in which the office works. He proposed the terms "Associate" and "Assistant" rather than Deputy.

Dr. Hutchinson noted there have been several discussions with staff about the proposed changes. He proposed to the Board that the changes be put in place for a six month period, scheduled for review July 1, 1992, to see if the division system works as well as he hopes. No action on behalf of the Board was required.

**Discussion Items and Reports:**

Discussion of reporting policy on salaries for those on Regents' contracts was deferred to a future meeting.

**OLD BUSINESS**

**A. Discussion of Recission and Tuition Surcharge**

Chairman Mathers stated at this time the Board needs to discuss what action it wishes to take related to the tuition surcharge. His suggestion was that the tuition surcharge be left in place, but the money not be collected until after the Special Session of the Legislature called for early January 1992. Indications from legislators are that the legislature intends to provide funds for the System that would make imposition of a surcharge unnecessary.

Chairman Mathers noted also that campuses have begun preregistration, and when that process began, the campuses needed direction on whether the surcharge should be imposed. Consideration was given to levying the surcharge and holding it in a special account. If relief was not granted by the legislature, the money would be available to alleviate the shortfall. If relief was provided, refunding the surcharge was considered. After some discussion, it was decided not to take

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that course. The campuses were instructed not to levy the surcharge, but were told that students registering should be notified the surcharge is still in place and if funding is not received from the special session of the legislature, imposition will be revisited. There is no question this has caused confusion to students and in the registration process. If the tuition surcharge (\$210 per student) has to be collected at a later date, there will certainly be confusion and difficulty encountered with that process.

In adopting the above procedure, it is now necessary to place in the record the Board's exact intent. The matter of the tuition surcharge was opened for discussion.

Regent Topel moved the tuition surcharge remain in effect, but collection of the surcharge be deferred until January 31, 1992.

Discussion was held on whether the motion should include the January 31 date. After discussion, it was agreed the date in Regent Topel's motion was appropriate because the Board would be holding a regularly scheduled meeting on January 31, and the Special Session should be concluded.

Mr. Noble spoke to the problems created by the refund proposal, reevaluation of the financial need package, and possible violation of federal guidelines of over-award. Staff supported delayed collection.

Regent Kaze noted he also favored delayed collection for several reasons, among them the just passed revision to Regents' policy which provides students opportunity to pay tuition in four, rather than three, installments.

Regent Topel questioned details of collection, if the surcharge has to be imposed. Do the campuses need authorization from the Board or changes in policy to effect the collections? Presidents responded they believed sufficient

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flexibility exists in present policy through a shift in the due date and other methods to build the collections into the deferred payment plans that exist.

MOTION: Hearing no further discussion, the question was called on the motion. Regent Topel's motion to keep the tuition surcharge in effect (\$210 per student) but delay collection of the surcharge until January 31, 1992 carried unanimously.

#### Update on Commitment to Quality

Commissioner Hutchinson provided a "snapshot" of the status of the Commitment to Quality effort launched by the Regents at the Havre meeting last summer.

In summary, the Operations Committee established is still in the data collection phase. Generally, the effort is on track. Dr. Hutchinson recommended to the Board, however, that a substantial portion of the January 1992 meeting of the Board be devoted to a review and discussion of the Commitment to Quality effort, and direction provided to the Commissioner's office and the campuses on future directions of the downsizing effort.

Progress reports were made on data collection efforts to date by Dr. David Toppen and Deputy Commissioner Noble.

Regent Topel expressed his concern that the original schedule adopted by the Regents on the downsizing effort not be "derailed". He believed it to be very important to keep to the adopted schedule. Commissioner Hutchinson responded at this point, because of the recession and the scheduled Special Session of the Legislature, the System is probably a couple of weeks behind. It will be possible to catch up, however.

Regent Johnson noted when the schedule for the Commitment to Quality effort was adopted the revenue shortfall

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in the state was not known. He believed the schedule for the downsizing effort should be even more strictly adhered to in face of the fiscal problems now facing the state.

Caution was expressed by staff, however, that the recession and special legislative session will cause a severe strain on staff resources through the end of December and early January. Every effort will be made to stay on schedule with the Commitment to Quality effort.

Regent Topel suggested centralization of certain functions in the System be given serious consideration to conserve scarce resources. Up-front costs of such actions were discussed.

It was the consensus of the Board that the bulk of the January 30-31, 1992 meeting in Butte will be devoted to receipt of reports and discussion of the Commitment to Quality effort.

The March 19-20, 1992 meeting will include an in-depth discussion of the System's future tuitions and the policies that establish those tuitions. This is intended to place students and campuses on notice that this discussion will occur.

Introduction of New Provost and Academic Vice President; The University of Montana

President Dennison introduced Dr. Robert Kindrick, recently of the University of Illinois, who will fill the position vacated by Provost Donald Habbe at The University of Montana. Dr. Kindrick will begin his new position on January 1, 1992. Chairman Mathers extended the Board's welcome to Dr. Kindrick.

NEW BUSINESS

Resolution of Appreciation for Dr. Donald Habbe; The University of Montana

Commissioner Hutchinson read a Resolution (on file)

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of appreciation to Dr. Habbe, who is retiring from the Montana University System on December 31, 1991. Dr. Habbe served The University of Montana for over fourteen years as Vice President for Academic Affairs, Provost, and Acting President. He served also by special request as Acting Deputy Commissioner of Academic Affairs in the central office in Helena.

The heartfelt thanks of the Regents was expressed in the resolution to Dr. Habbe for his exemplary service, with all good wishes for his future endeavors.

On motion of Regent Kaze, the resolution was unanimously approved. Dr. Habbe received a rousing round of applause. He will be sorely missed.

#### Appeals Submission Agenda

Chief Counsel Schramm reviewed the documents submitted with the agenda material regarding the appeal of Roger Huffman. The appeal is on the submission agenda. The decision to be made is whether the Board wishes to accept the appeal and set the matter for oral hearing at the January 1992 meeting. If the Board chooses not to accept the appeal, the Commissioner's decision becomes the final administrative action of the System.

After brief discussion, on motion of Regent Johnson, the Board declined to accept the appeal for review by the Board. The Commissioner's decision to deny the appeal was thereby upheld. Regent Schwanke abstained from voting on the appeal.

#### Annual Gender Equity Report and Plan

Commissioner Hutchinson introduced Dr. Jane Karas, Gender Equity Coordinator for the Montana University System, who presented the annual gender equity report and plan in vocational-technical education in Montana (on file) as required by the Carl D. Perkins Vocational and Applied Technology

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Education Act. Dr. Karas reviewed the report including sections on laws affecting gender equity in Montana; employment trends; secondary and post-secondary vocational-technical education, program providers, 1991 disbursement by delivery system; and recommendations and plans for program year 1993.

Dr. Karas also distributed and highlighted the information contained in the handout "Startling Statements - Gender Equity 1991" and distributed copies of "Partnership in Equity", the equity bulletin distributed quarterly by the gender equity office.

At the conclusion of the review, Dr. Karas responded to Regents' questions.

On motion of Regent Topel, the Annual Gender Equity Report and Plan for Montana was approved.

Request to Join as Amicus; Addition to Agenda

Chief Counsel Shcramm reported he had just received a telephone call from the State's Attorney General asking the Board of Regents to join as *amicus curiae* in a suit arising as a result of the suit of the Board of Public Education vs. Associated Press. In that suit the Supreme Court struck down the right of a public board to close meetings to talk with legal counsel if the litigation discussed involved another public agency. Some of the language in that suit casts doubt on whether any of the statutory exceptions to the Constitutional requirement for open meetings were still valid, including litigation and collective bargaining exceptions. The Great Falls School Board has now been challenged by the Great Falls Tribune when it met in executive session to discuss collective bargaining matters. The District Court upheld the School Board, stating the Board of Public Education case was limited to the facts of one public agency suing another, and did not apply to situations of a public agency discussing an

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outside private party. The Great Falls Tribune is now appealing that case to the Supreme Court. The Montana School Boards Association is joining as *amicus*, other state agencies are also joining, the State's Attorney General's office will be writing an *amicus* brief; the Board of Regents has been asked to join.

Dr. Schramm noted he told the Attorney General's office he would recommend that Board of Regents joins in the suit because it is a matter of some importance to the Board. He asked an indication of the Board's wishes in this matter.

On motion of Regent Topel, Chief Counsel Schramm was authorized to take the steps necessary to provide the Board of Regents enter the Great Falls School Board suit as *amicus curiae*.

#### Agenda Issues

Commissioner Hutchinson reported several Regents had expressed an interest in having more in-put into setting the agenda for meetings. Counsel was provided earlier in this meeting regarding discussion of the Commitment to Quality at the January 1992 meeting, and tuitions in March. That has been so noted. If there are other issues Regents would like to have reviewed in the next or subsequent meetings, this opportunity for those requests and/or discussion is provided.

Regent Kaze stated his appreciation for the draft outline agendas the Board has been receiving some two weeks before the meeting.

#### CAMPUS REPORTS

President Dennison stated it was his pleasure to notify the Board of the recent selection of The University of Montana's 26th Rhodes Scholar, Molly Ann Kramer, a student in environmental studies at the University. She was one of 32 students selected out of over 1,000 applicants. Ms. Kramer

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carries a 4.0 grade average; her selection ties The University of Montana as fourth among all public universities in numbers of recipients of the Rhodes scholarships. Only 16 colleges and universities in this country produce more Rhodes Scholars than The University of Montana.

President Malone reported "two great things" - the MSU Chapter of American Indian Students in Engineering Science has just been named the outstanding chapter in the United States in that organization. Also, a second year student in ag business, Mike Stevenson from Hobson, was just elected National Secretary of the Future Farmers of America. That makes Mike one of six officers in an organization of 400,000 members.

#### STUDENT REPORTS

Kirk Lacy, President, Montana Associated Students, thanked the Board on behalf of all students in the System for the decision made earlier today regarding the tuition surcharge. Mr. Lacy noted it is obvious from the Board's action in not implementing the tuition surcharge at this time and other efforts in the past that the Board is doing all it can to protect the interests of students in the System, and that is appreciated.

#### COMMISSIONER'S REPORT

Dr. Hutchinson expressed heartfelt thanks to President Carpenter, his wife, and the Eastern Montana community for the fine hospitality extended to the Board, Presidents and staff at this meeting on Eastern's campus.

Dr. Hutchinson reported on a meeting held with the legislative liaisons who are involved in working with the legislature. The meeting was a "debriefing session" on what had occurred in the last legislative session, and included some self-analysis and preliminary planning for the next session. It is well understood that the campus presidents need to be



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heavily involved in preparation of the agenda for working with the Legislature, and the Regents are certainly the controlling force in that preparation.

Commissioner Hutchinson reported on very preliminary planning that occurred in the debriefing session in preparation for the 53rd Session. It was the view of those involved that the Education Commission for the Nineties and Beyond report should remain alive and well, and be very much a part of whatever efforts the System makes. It was also believed important to start earlier in the legislative campaign than was done before the last session. There appeared to be consensus that the Commissioner should meet with more groups of legislators, but fewer legislators in each group, and include the presidents involved with those legislative groupings. The goal will be a better job of educating legislators of critical issues facing higher education and what the System's agenda might be. There didn't appear to be much perceived need for change on how the System approaches the legislature, particularly in the way presentations are made before the Education Subcommittee. There was very embryonic discussion of agenda; much needs to be discovered, particularly what will occur in the Special Session in January 1992.

Three committees were organized: (1) an organizational and planning committee; (2) a committee to develop brochures of things accomplished by the System that would be of interest to the legislature and some of the System's hopes for the future; and (3) a group that will try to provide legislators with opportunities to benefit from the many areas wherein the System has expertise, for instance, possible revenue opportunities, etc. This would be done in a non-partisan, non-judgmental way of providing information on key issues related to the state's economy.

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The next meeting of the liaison group is tentatively scheduled in January 1992 following the Presidents' meeting, and before this Board meets again.

Dr. Hutchinson reported on the semi-annual meeting of the WICHE Commissioners. Montana's newest Commissioner is John Dallum, Superintendent of Schools in Cascade, and a member of the MHESAC Board. He will bring to WICHE a previously under-represented perspective on elementary and secondary education.

WICHE is working on a position paper on a major western workshop on the issue of student financial aid.

Dr. Hutchinson noted Ellen Swaney reported on minority statistics at the Board's meeting on Wednesday at Little Big Horn College. Those statistics will be provided to those who were not there. They are self-explanatory.

Dr. Hutchinson reported the Joint Committee on Post Secondary Education and Budget met about two weeks before this meeting. Taryn Purdy, of the LFA office and chief staff person for the Committee, gave a report on formula funding. It was interesting to note that every one of the blue ribbon reports she addressed had one recommendation in common - that there be greater flexibility in budgeting. Dr. Hutchinson noted that translates to lump sum funding. Also, some of the reports discussed increasing the strength of the central office. This Board has already taken that step. Reports were also made on peer data, followed by discussion of recission and tuition surcharge and impacts on the campuses. The next meeting will deal with Commitment to Quality; report on RERS; a report will be made on outcomes assessment and incentive funding; there will be review of the special session and a report made on administrative salaries.

Dr. Hutchinson spoke to articles appearing recently in the media that Montana's administrative salaries are

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extraordinarily high vis a vis other systems and other states. He stated categorically our data suggests quite the opposite is true. The amount of money spent in Montana on administrative salaries is less than the peers, and that report will be made quite clearly at the next meeting of the Committee.

Dr. Hutchinson concluded his report by providing a tentative schedule of meetings of the Education Subcommittee of the House Appropriations Committee and the Long Range Building Committee in anticipation of the special session of the legislature. He asked the presidents and directors to stand by on those dates to be prepared to come to Helena to make presentations.

Regent Kaze reported on his and Regent Boylan's attendance at the WAMI Conference in Seattle. He believed WAMI to be a program of extraordinary return for the State of Montana in providing medical educational opportunities for Montana students.

He also asked that discussion of the administrative salary freeze be held in today's meeting. The topic was discussed insofar as the Consent Agenda was concerned yesterday, but discussion of the freeze was deferred to today and the campuses need guidance on exactly what the Board intends.

#### Discussion of Administrative Salary Freeze

Regent Johnson stated that what was done yesterday with regard to administrative salaries on the Consent Agenda was that a special motion was passed, subject to the provisos contained in the motion, but it applied only to the Consent Agenda of December 12, 1991. He stated he felt because of the scheduled special session of the legislature, the Board may wish to impose a freeze on administrative salaries until that special session is completed.

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MOTION: Regent Topel then moved that all administrative salaries in the System be frozen at current rates until completion of the Special Session of the Legislature to be held in January 1992.

Summarizing the lengthy discussion of exactly what the motion covers, the salary freeze covers all positions not covered by collective bargaining paid for through general fund appropriations. The freeze is in effect until the completion of the special session of the Legislature. Regarding new hires, if a unit has advertised a position at a particular salary or if it has tendered a written offer prior to December 13, that salary may be offered even if it represents a raise over the incumbent's salary. In all other cases involving new hires, those must come in at the current salary level of the position. The Board of Regents retains final authority to approve salary levels.

The question was called on the motion. The motion carried unanimously.

President Flower, Miles Community College, spoke to his concern with setting tuitions at the March 1992 meeting of the Board. He would prefer that occur earlier to provide more time for notice of any change. His second concern related to the talk towards moderation of the recession that might come out of the Special Session of the Legislature. Everything he had heard related to relief for the University System units and the vocational-technical centers. He stated he was assuming the community colleges would also get their proportion of relief from whatever comes out of that session.

Mr. Noble responded to the second concern stated by President Flower. He explained the community colleges are not included in the \$4.69 million dollar figure. The governor's office agreed to reduce the community college reduction; the

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colleges are flow-through agencies that receive a grant. Under the Governor's office targets, the colleges were reduced from 8% to 4%; 4% was forgiven. The local boards of the community colleges can increase tuitions or not as they wish to make up the 4%. The community colleges are not part of the agenda on the table for a tuition surcharge.

It was noted Flathead Valley Community College has made the decision to impose a tuition surcharge to backfill the loss of general fund called for in the Governor's rescission. Miles and Dawson have decided not to increase tuition. Commissioner Hutchinson noted it was not clear to him that the Legislature's intent to provide funds so a tuition surcharge is not imposed included consideration of the community colleges. That discussion has been limited to units of the University System. Chairman Mathers assured the community college presidents their concerns would be raised in discussions with the Legislature, and there would be opportunity for the colleges to explain to the Education Subcommittee what the impact of the rescission would be on those campuses.

The regular meeting of the Board of Regents adjourned at 12:30 p m. The Board met immediately upon adjournment in a brief executive session, followed by a luncheon for the Board hosted by the students of Eastern Montana College. Following the luncheon, the Board of Regents held an Open Forum for students, faculty, staff, and interested persons.

The next regularly scheduled meeting of the Board of Regents will be held on January 30-31, 1992, in Butte, Montana.

