

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

DATE: October 23-24, 1986

LOCATION: University Center  
Montana Rooms, Series F  
University of Montana  
Missoula, Montana

REGENTS  
PRESENT: Morrison, Birkenbuel, Hurwitz, Kaze, Lind,  
McCarthy, Redlin  
Commissioner of Higher Education Carrol  
Krause

REGENTS  
ABSENT: None

PRESIDENTS  
PRESENT: Koch, Carpenter, Merwin, Norman, Treadway  
Tietz

PRESIDENTS  
ABSENT: None

Minutes of Thursday, October 23, 1986

Chairman Morrison called the meeting to order at 9:10 a.m. The agenda for this portion of the meeting was continuation of the workshop discussion of the Commissioner's report "Issues in Montana Higher Education." The discussion outline furnished with the agenda material would be followed (on file). Chairman Morrison stressed this is not a public hearing on the issues; that will be held at a later date. The Board is interested at this time in the presidents' and the Commissioner's opinions of the impact on the System of the various issues set out on the discussion outline.

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After review and discussion of each agenda item, the following actions were taken:

I. INSTITUTIONAL MERGER - UM/WMC:

Consideration of WMC becoming UM School of Education:

Place on agenda for public hearing. Commissioner, Presidents Koch and Treadway, and staff were instructed to prepare an additional report including possible administrative efficiencies, cost-savings, and quality of education that could be effected through some form of merger of the two institutions at the December meeting of the Board. Any information gathered prior to the public hearings should be submitted to the Board.

II. SYSTEM POLICY ISSUES

A. Admission Standards

Place on agenda for public hearing. Standards to be considered are the requirement of a 2.5 grade point average or a minimum ACT score of 19 for admission to Montana State University, the University of Montana, and possibly Montana Tech. Also to continue to be considered would be a required 2.0 grade point average or a score of 15 on the ACT test for admission to Western Montana College, Eastern Montana College, and Northern Montana College. Fifteen percent of incoming freshmen would be exempt from the requirements if they met certain other requirements.

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B. Fee Waivers

Place on agenda for public hearing. Consider reduction in the number of fee waivers granted by the System. Consider elimination of fee waivers in statute. Develop appropriate Board policies to accommodate minority and other fee waivers the Board wishes to continue.

C. Conversion from Quarter to Semester System

Place on agenda for public hearing.

D. Intercollegiate Athletics

Place on agenda for public hearing. Further consideration should be given to 1) a change in the divisional level of competition for the two universities; 2) elimination of football at Montana Tech and Western Montana College; and 3) reduction in the number of athletic fee waivers.

Further discussion needs to be held on the feasibility of implementing a student fee to support athletics. A review was requested of Regents' policy on compliance with criteria to remain in the Big Sky Conference.

Presidents rebutted Regent Redlin's recommendation that a moratorium be placed on all athletics. Regent Redlin felt this action would provide dollars to spend on academic programs, and would clearly call attention to the severe budget crisis facing the System.

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Regent Lind asked President Tietz to elaborate on matters alluded to in his defense of the athletic programs at the two universities. He asked what impact the studies presently underway are having on the units' abilities to recruit not only athletes, but faculty and students. What kind of timeframe should the Regents be considering to cancel some of the adverse affects having these matters under consideration are having on programmatic matters, as well as athletics? Is damage being done to the System by having decisions suspended? Balancing those concerns with the kinds of information provided to the Regents, when should those decisions be made in order that the least harm is done to the System?

President Tietz responded he believed decisions should be made with care, but also with dispatch. For the persons running the programs -- those who recruit the faculty, the students, the athletes -- the present uncertainty is doing great damage. He stated he believed it to be essential the Regents take the stand they are the "defenders of the faith." They are the individuals responsible for this System, and should state clearly they are attempting to come out of this review with the strongest, best balanced System the state of Montana can afford. If that comes across clearly, with the message that the actions taken are intended to enhance the institutions -- a clear statement of purpose as to where the System is and where the Regents perceive it should be -- the actions will fall into place in a reasonable way. Taking actions which appear unrelated to one another with no clear direction is the damaging aspect of such

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considerations. The state's present funding circumstances of course play a major role in any of these considerations, and no one knows what direction those should or could take at this time.

E. Extended and Continuing Education

An updated revision of the draft report of the Extended Education Task Force was distributed by Mr. William Lannan. Further discussion of this topic will be scheduled at the December meeting of the Board.

The meeting recessed at 11:50 a.m., and reconvened at 1:30 p.m. in joint meeting with the Board of Directors of the Montana Higher Education Student Assistance Corporation.

Mr. Aaron Reynolds, Touche Ross & Co., presented the draft of the Request for Proposals (RFP's) for the Servicing Center Feasibility Study. The Montana Higher Education Student Assistance Corporation (MHESAC), and the Montana Guaranteed Student Loan Program (MGSLP) both currently contract with external parties for student loan administrative and data processing servicing. Touche Ross was contracted to analyze the feasibility of various servicing alternatives for the two organizations. In connection with this project, RFP's have been developed by Touche Ross. MHESAC wishes to solicit proposals to provide student loan software to facilitate the purchasing of loans in the secondary market and to support adequate servicing of those loans, or to receive complete or partial servicing from a student loan servicing vendor. MGSLP wishes to solicit proposals to provide software to facilitate their guarantee agency function, or to receive complete or partial servicing from a student loan servicing vendor. Mr. Reynolds reviewed the proposed RFP's,

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including the recommended evaluation approach and definition of the evaluation matrix, and responded to Regents' and MHESAC Board members' questions.

After discussion, it was the consensus the RFP should be revised to more clearly indicate the intent of the project is to analyze the feasibility of servicing alternatives. The evaluation matrix should be revised to assure that potential Montana vendors are given equal opportunity for consideration. Members of both Boards stated the MHESAC Board of Directors and the Board of Regents would have ultimate responsibility for determining the future student loan servicing after considering risks involved, costs, and vendor's ability to meet technical and servicing requirements. Mr. Reynolds cautioned the proposed revisions may increase the risk that vendors' responses will not allow as thorough analysis as the Boards may need and desire.

The RFP will be revised to accommodate the concerns expressed in today's discussion, and mailed according to the agreed-upon timetable.

The joint meeting of the MHESAC Board of Directors and the Board of Regents adjourned at 2:05 p.m.

The Board of Regents reconvened at 2:10 p.m. with the same members present for conclusion of discussion of the "Study Issues for Continued Consideration".

### III. PROGRAM CONSOLIDATION

After review and discussion, the following actions were taken on program consolidations:

At the Yellow Bay Workshop, the decision was made that the graduate programs at Northern Montana College and Western Montana College would be removed from further consideration. Presentations in support of the need for those programs were made by Presidents Treadway and Merwin. Chairman Morrison stated Regent Redlin wished that decision to be reconsidered.

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Regent Redlin stated her concern was with the quality and appropriateness of the master's degree programs at the colleges in Montana. She recognized they were an important part of the structure, but the structure is what is now being studied. She believed they should receive scrutiny with the focus of how the universities could assist the colleges in delivering this service to their constituencies, rather than making it totally unavailable outside of the two universities.

Chairman Morrison stated the question would be, was it the desire of the Board to reconsider its previous action and place the issue of graduate programs at the colleges back on the agenda for further consideration. Regents Redlin and Lind voted yes. Regents Hurwitz, Kaze, Birkenbuel, McCarthy, and Morrison voted no. The motion for reconsideration of the graduate programs at the colleges failed.

PROGRAM CONSOLIDATIONS REMOVED FROM FURTHER CONSIDERATION

E. Radio and TV - UM/MSU

Regent Kaze moved the film, radio, and tv programs at both campuses be removed from further consideration with the proviso that the Board should continue to examine the focus of both programs so each has a particular emphasis, particularly with regard to extended education and telecommunications. The motion carried.

F. Computer Science - Master's Programs at the  
Two Universities

Dr. Krause explained the question at issue is continued duplication of graduate programs at the two universities. Regent

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Lind moved that consideration of the master's degree computer science programs be removed from the list for further consideration. The motion carried, with Regent Redlin voting no.

On motion of Regent Hurwitz, the following three Ph.D. programs were removed from further consideration:

- H. Biological Sciences, Ph.D.
- I. Chemistry, Ph.D.
- K. Microbiology, Ph.D.

The following Program Consolidations as listed on the Discussion Outline will be placed on the agenda for public hearing:

- A. Teacher Education
  - 1. Elementary Education
  - 2. Business Education
  - 3. Industrial Arts
  - 4. Home Economics
- B. Business and Management
- C. Fish and Wildlife Management
- D. Engineering Science
- G. Master of Fine Arts
- J. Mathematics, Ph.D.
- L. Thematic Degrees - WMC, NMC

IV. OTHER PROGRAM CONSIDERATIONS

- A. Low Enrollment Majors
- B. Program Options
  - Commissioner      Krause      asked      concurrent

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consideration of A. and B. He recommended the institutions review low enrollment programs and program options against the criteria established by the Academy for Educational Development study.

Regent Lind moved the presidents be directed to provide a report to the Board listing low enrollment undergraduate and graduate programs on each campus. The report is to include justification for retention of the programs, using the criteria in the AED study. The list of low enrollment programs should be submitted to the Board at the December 1986 meeting. Justifications for continuation of the programs should be submitted to the Board no later than March 1987. The motion carried.

C. Regionalization of Programs

Remove physical therapy, pharmacy, and architecture from further consideration with the understanding they will be considered for regionalization through the WICHE program and/or some other bilateral or other regional agreement. Action will be deferred on consolidation or elimination of these programs at this time. Reports on the feasibility of regionalization of those programs will be brought to the Board as they are completed.

Chairman Morrison noted for the record that any decisions made on the programs under consideration for consolidation or elimination would be made to include accommodation of those students in the programs, and allow those students to complete their course of study.

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D. WICHE - WAMI

Commissioner Krause referenced the material submitted with the agenda showing how cuts in appropriations have reduced slots in the program. The legislature has directed a "payback" or participation plan be developed and presented to the 1987 Legislature. A draft of that plan will be submitted to the Regents at the December 1986 meeting.

E. Law School Enrollment Limits

Recommendation made by Dean Mudd that either more funds be obtained for the program or consideration be given to a larger tuition or special fee. Under certain constraints, consideration should be given to lowering Law School enrollments. Put on agenda for public hearing.

Commissioner Krause called attention to two reports on the agenda which have not been discussed due to lack of time. These are the Extended Education Task Force Draft Report, and the Information Processing Report prepared by Commissioner's staff. These are on-going matters, and while not appropriate for the agenda of the public hearing, they will be placed on the agenda of the December 1986 meeting. They are important reports on System processes, not programmatic reports.

Report on Merger of Cooperative Extension Service/  
Agricultural Experiment Station; Montana State University

President Tietz reported the administrative merger of the Ag Experiment Station and Coop Extension Service is progressing well. Three public hearings have been held in Forsyth, Miles City, and Wibaux, and two more sessions are planned, one on the Hi-Line, and one in the

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northern part of the state. Dr. Tietz distributed a diagram containing the latest information on the merger. The principal purpose of this consolidation is to improve the communications between the two systems. The issues are a matter of moving resources into the area of communications, and moving the specialists into the academic departments. Approval of the consolidations will be requested of the Board, probably at the December meeting.

The meeting recessed at 4:35 p.m., to reconvene at 8:30 a.m. on Friday, October 24, 1986, in executive session. The open meeting will reconvene at 9:30 a.m. in the same location.

#### Minutes of Friday, October 24

The Board of Regents reconvened at 9:45 a. m. with the same members present. Roll call was taken, and it was determined a quorum was present.

Chairman Morrison called for additions or corrections to the minutes of the previous meeting. None were stated, and the minutes of the September 15 - 16, 1986 meeting were ordered approved.

#### By-Laws and Policy Committee

Commissioner Krause reviewed Item 53-001-R0986, Presidents, Salary; Montana University System (REVISED). He noted the revision clarifies that any compensation received by a president of a unit for services as president must have Board approval. On motion of Regent McCarthy, the item was approved.

Item 53-701-R1086, License to Operate an FM Radio Transmitter; Eastern Montana College was presented by President Carpenter, EMC. He referenced the material sent with the agenda, and explained the item authorizes the president of Eastern Montana College

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to apply to the Federal Communications Commission for a license to operate an FM radio transmitter in the Bozeman area. The license will be held by radio station KEMC for Eastern Montana College. Funds for the project will be supplied by a federal grant and the Friends of KEMC. No state money is required. On motion of Regent McCarthy, the item was approved.

Capital Construction Committee

Item 53-101-R1086, Renaming of the "Old Men's Gym" as the W. E. Schreiber Gymnasium; University of Montana, was reviewed by Mr. William Lannan, Director of Special Projects, and President Koch, UM. W. E. "Doc" Schreiber served the University of Montana from 1919 to 1945 in several capacities, and under his leadership, the Men's Gymnasium was built in 1922. Testimony from former students, athletes, and associates of "Doc" Schreiber came from across the United States in support of renaming the gymnasium in his honor. In addition, several of Dr. Schreiber's co-workers were present and testified to his many contributions to the University and the community. On motion of Regent Lind, the item was approved.

Item 53-102-R1086, University Center Renovation; University of Montana, was discussed at length. The item authorizes the University of Montana to plan and complete the renovation of the University Center at an approximate cost of \$700,000. Funding for the project includes the proceeds of the University Center Development Fee approved by the Board at the June 20, 1986 meeting in Item 51-103-R0686.

Ray Chapman, Director of the University Center, reviewed the research undertaken to determine

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how the facility might be revitalized to return it to the popular contributor to student life it originally was. The goal is to reduce student fee support now necessary to keep the facility open by allowing it to generate funds through use of the mall concept. Mr. Chapman explained a good mix of businesses are interested in locating in the mall. The University will provide the generic renovation necessary; specialty needs will be provided by the tenants. Local financing will be used for the project in keeping with the project's goal of University and community mix. The issue of the University's liability was addressed by Mr. Chapman.

Regents questioned student reaction to the project. Paul Tuss, President, Associated Students, University of Montana, explained the process which led to support of the project by Central Board. He noted that while the debate on the project occurred before the most recent tuition increase, he believed the project still has student support. It was noted there is a petition in opposition to the project circulating on the campus. The petition is not representative of any student group, but is being circulated by an individual. Mr. Tuss explained that students are already paying a fee to support the Center, and with so little of the space utilized, they do not believe they are getting their money's worth. This proposal has the potential to change that. Speaking to the additional fee, Mr. Tuss noted the additional \$5 per quarter will no longer be assessed when the debt for the renovation is retired, a period of five years, or perhaps less.

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Other Regents' questions including why the project was not financed through bond sales, and what safeguards the University has in place in the event businesses fail, were responded to by Mr. Chapman.

Regent Redlin stated that before a vote was taken on the item she wished to reiterate her feeling that although she understands the students' interest in getting out from under the burden of supporting a building that does not satisfy their needs, she believed philosophically there is something not right in students becoming landlords.

Chairman Morrison asked if there were any persons present who wished to speak in opposition to the item. Hearing no response he called for a motion.

Regent Lind moved Item 53-102-R1086 be approved. Regents Kaze, Birkenbuel, and Lind voted yes. Regents McCarthy, Hurwitz, and Redlin voted no. Chairman Morrison voted yes. The motion carried.

Budget Committee

Item 53-202-R1086, Authorization to Expend Plant Funds; Montana State University, authorizes MSU to expend approximately \$547,057 for a Library Automation Project, and approximately \$137,663 for an Endowment, Alumni, and Foundation Automation Project. President Tietz explained funds for these projects are available as a result of the issuance of the 1986 Refunding Bonds. He briefly reviewed the scope of the projects as set out on the explanation on the item. On motion of Regent Hurwitz, the item was approved.

Item 53-501-R1086, Authorization to expend Student Computer Fees; Montana College of Mineral Science and Technology, was reviewed. Mr. Paul Dunham

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explained the intent of these computer enhancement projects is to increase the power available to the campus, which in addition to providing improved access, will also decrease maintenance costs. The item authorizes the use of the campus's computer fee for the hardware acquisition for five years, and has the unanimous endorsement of the Campus Computer Committee. Mr. Dunham referenced the detailed explanation of the proposal contained on page two of the item, and recommended its approval. On motion of Regent Hurwitz, the item was approved.

Jack Noble, Deputy Commissioner for Management and Fiscal Affairs, presented Item 53-003-R1086, Program Transfers, 1986-87; Montana University System. Four campuses require program transfers to adjust their operating budgets to meet the budget cutbacks of the special session. Mr. Noble explained the transfers vary from 1.4% of the total budget at the University of Montana, to 4.3% at Western Montana College. The primary thrust of the transfers at most campuses is to move funds from support to instruction. On motion of Regent Hurwitz, the item was approved.

Mr. Noble next reviewed Item 53-004-R1086, Budget Amendments; Montana University System. He explained the budget amendments are required by four of the six campuses to provide expenditure authority for the revenue generated from the tuition surcharge recently approved. Montana Tech and Montana State University do not require budget amendments because of revenue shortfalls on tuition and other revenue amounts. The budget amendments and certifications

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required by MCA 17-7-403 were presented to the Legislative Finance Committee in September, and were found to be in compliance with state laws. On motion of Regent Redlin, the item was approved.

Item 53-005-R1086, Operating Budgets, 1986-87; Montana University System (REVISED) was reviewed by Mr. Noble. Before review of the operating budget book, Mr. Noble called attention to the Supplementary Budget Data memorandum to the Regents dated October 16, 1986. (On file) He explained the schedules attached to the October 16 memorandum show how the System's revised budget for the current fiscal year (HB 30) compares with the original budget built on the commitments made in HB 500, and approved in June 1986. Over 73% of the campuses' personal services budgets were contracted for at the June meeting. This left very little flexibility to manage the cuts made by the legislature in the June 1986 Special Session. Schedule A provides a breakdown of cuts by agency. Schedule B provides a breakout of the revised revenue.

Mr. Noble reviewed Schedule A, noting the percentage of cuts ranged from a high of 5.4% at Montana State University, to 3.3% at Montana Tech. The Agricultural Experiment Station experienced a 14.1% decline, caused by fallback in general fund, cutbacks at the federal level, and the drop in agricultural income. Substantial adjustments had to be made in that budget. The System experienced a total reduction of over \$8 million between the June 19, 1986, approval of the operating budget and presentation of the current revised operating budget dated October 24, 1986, as a result of cuts made in the June Special Session of the legislature.

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In reviewing Schedule B, Mr. Noble noted the perception is that state agencies experienced a 5% reduction in funds in the June 1986 Special Session. The University System incurred a 13.3% cutback in general fund dollars. Portions of that amount were made up through utilizing fund balances in some of the System's other accounts, such as millage and coal tax balances. The legislature substituted approximately \$3 million in the millage account for other general fund dollars. Another \$1 million of coal tax money fund balance was also used to replace general fund dollars. Coal tax and millage balances will not be available in those amounts next year. The System will have to receive back \$5.6 million in general fund dollars, or an approximate 7% increase in general fund in the next biennium, just to stay even. Mr. Noble stated this will be very difficult in light of present general fund forecasts.

Chairman Morrison noted that to put these cuts into perspective, it should be realized they almost equal the amounts of general fund dollars received by three campuses; Western, Montana Tech, and Northern.

Mr. Noble reviewed the schedules in Item 53-005-R1086. He noted a revision is needed on the Central Office breakout on Schedule 1. Regent approval was granted in the last year to change the budgeting entity of the Group Insurance Plan from Montana Tech to the Commissioner's office. The real increase in the total budget is \$130,264 after adjusting for the change in accounting for group insurance. This represents an increase of one-tenth of one percent.

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On Schedule 3, Comparative Summary of Funding, Mr. Noble noted the increase in millage dollars and in tuition and fees constitute the main portion of the System's budget increase. He also called attention to Schedule 5, Summary of Changes in FTE Employees, noting the 161.17 FTE reduction in the System, or a 4.6% reduction FTE's in the last year. Montana State University lost the greatest number, followed by the University of Montana.

Mr. Noble called attention also to Schedule 9, Summary of Funding, Current Unrestricted Operating Funds, which shows the dramatic shift in the System's budget on the revenue side from general fund dollars to millage and tuition.

On motion of Regent Hurwitz, Item 53-005-R1086 (REVISED) was amended on Schedule 1 as requested by Mr. Noble, and approved.

Mr. Noble stated the Governor's Budget Office had been informed a supplemental request of approximately \$4,500 would be made to provide money to pay the statutory per diem of the Regents for this fiscal year. Regents' authorization is requested. On motion of Regent Hurwitz, the supplemental request was approved.

NEW BUSINESS

Residency Appeal

Chairman Morrison determined it was the consensus of the Board that the appeal be heard, and that Ms. Velazquez was present to testify on her own behalf.

Chief Counsel Schramm presented the facts which led to the Commissioner's decision to deny the appeal for in-state status for fee purposes. He stated Ms. Velazquez is receiving AFDC support, and it is

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required that a person receiving that support be a resident of the state of Montana. Ms. Velazquez has resided in Montana for approximately two and one-half years. She has done nothing inconsistent with being a resident during that period. On the other hand, she did not do the things that normally start the clock running for residency status for fee purposes until May 1986. Two questions should be asked by the Board: (1) Is receipt of welfare benefits enough to start the clock running for the Board's residency requirements, and (2) is that enough by itself.

Commissioner Krause stated for the record that he believed it was appropriate in light of the requirements of the Board's residency policy that the appeal be denied. He would, however, recommend the Board overturn his decision in this case because he felt meeting the residency requirement for AFDC was pertinent, and worthy of waiver of the Board's requirements.

Ms. Velazquez explained she had not obtained a driver's license and registered her vehicle earlier because she was housebound with a small child who was not well. As soon as she felt it safe to take the child out, she began the actions required under the policy.

After brief discussion, on motion of Regent Hurwitz, the Commissioner's decision was overturned, and Ms. Velazquez was granted in-state status for fee purposes.

Employment Appeal

Chief Counsel Schramm stated the appellant Dr. Robert E. Derkey, is an employee of the Montana Bureau of Mines and Geology, and was present to speak on

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his own behalf. Dr. Schramm explained the format to be followed. Chief Counsel for the Board will present the factual background. Appellant will be given approximately twenty minutes to state his case; Dr. Schramm will respond, followed by questions by the Board if it so desires.

Chief Counsel Schramm outlined the factual background. In January 1986, then Acting President Dayton notified Dr. Derkey that his contract would not be renewed as of eighteen months hence (the end of FY 1986). The reason given was fiscal constraints. Dr. Derkey utilized the campus grievance procedure, including review by the Academic Freedom and Tenure Committee. The campus grievance committee decided the terminal contract offered was appropriate. Dr. Dayton then reconfirmed his earlier decision, and the matter was appealed to the Commissioner's office. Dr. Derkey asked the matter be remanded back to the campus for consideration by the present campus administration. An inquiry to that administration resulted in the response that the financial circumstances which occasioned the elimination of Dr. Derkey's position had not lessened, but were indeed worse. In the view of the campus administration, the matter was properly before the Commissioner for decision. Commissioner Krause decision was to uphold the campus findings, and deny the appeal.

Dr. Derkey reviewed the hiring process which resulted in his selection by the Montana Bureau of Mines. The position was the kind of tenure track position he was looking for, having just been awarded his Ph.D. He believed he would have six years employment to develop a solid program in economic geology. The facts the position was state funded, had

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just been created by the legislature, and was described as a core position in the Bureau were also important considerations. Dr. Derkey stated he believed his performance had been satisfactory over the last three years; he had received satisfactory or meritorious evaluations; and he had no forewarning that his position was to be eliminated.

In conclusion, Dr. Derkey reiterated the points made in his written appeal to the Board (on file) that, among other things, he believed there was a lack of fairness in the decision-making process; inadequate review of that decision; and no opportunity for input into the decision-making process by his tenure track peers, or to the importance of his program to the Bureau. As stated in his petition, his goal is for the Regents not only to reconsider the decision in his case, but to reduce to writing a coherent policy for hiring-tenure-termination at Montana Tech based on the guidelines established by the American Association of University Professors.

Dr. Schramm stated in reaching their decision, it was important that the Regents consider that Dr. Derkey was a probationary employee. Over the last several years the distinction between tenured and probationary status has begun to blur because of court actions, but it is an important distinction.

Regents' policy is clear. For a probationary employee, twelve months' notice is required, which is fairly generous. Dr. Derkey was given eighteen months notice. As to the point of prior consultation, the process of appeal in place is the kind of process Dr. Derkey is asking for. The college administration has reviewed this matter; the APD has

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reviewed it twice. The point of the Academic Freedom and Tenure Committee that all professionals be given a chance to argue for or against a decision to terminate employment before the decision is final is a noble ideal, but not one this Board has chosen to require of their administrators when dealing with a probationary employee. For tenured employees, the Board has a financial exigency plan which requires the broad scale participation Dr. Derkey is asking. Dr. Derkey agrees he is a probationary employee, but is asking to be treated as if he were tenured. That is understandable. All employees would prefer that treatment if they found their position was going to be abolished.

The Academic Freedom and Tenure Committee findings offered no criticism on the merit of the decision, nor that any grounds exist in violation of tenure or academic freedom. They state simply that a fairer process might result in a wiser decision.

Speaking to the essence of the appeal, Dr. Schramm stated there is no assertion the policy was violated; Dr. Derkey's discontent is with the way the policy allowed him to be treated. Dr. Schramm explained the differences between an earlier employment grievance dealing with an adjunct professor, Sharon Lewis, and the one before the Board today. He noted the policy on adjunct professors was revised and approved by the Board in the spring of this year, based on the recommendations of the hearings examiner in the Sharon Lewis case. There is no assertion, however, that Dr. Derkey was an adjunct professor; he is a tenure track probationary employee.

In Montana, and throughout the nation, tenure track positions are probationary for six years.

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In the seventh year, it is "up or out." Dr. Derkey's assertion that because he was hired on a tenure track position, he was guaranteed a full six years' employment has no basis in policy or in law. The decision to terminate this position was not performance-based. The in-put of colleagues would be more important if that were the issue.

As to the assertion that other positions at the Bureau have been filled since his notice of termination, that is an administrative decision based on what positions the administration feels must be filled in light of limited resources. Again, this decision was not performance-based, it was a reallocation of resources. Regents' policy is based on the assumption that decisions of resource allocation are not the kinds of decisions which require broad collegiate input. They are administrative decisions, and the Board expects administrators to make those decisions. In conclusion, Dr. Schramm stated he believed in this case fairness was not violated, and indeed extra notice was given.

Dr. Krause stated his review found no violation of Board or internal campus policy. Montana Tech has a continued need to reinvest its resources to best accomplish its objectives. He found no reason to return or remand the decision further, and recommended the Board uphold the decision.

Dr. Derkey stated his opinion that to argue eighteen months' notice constituted fair treatment was a shallow argument. If something is not fair, no matter how much advance warning you are given, it is still not fair. Opportunity for in-put into the decision should be provided. The funds reallocated were earmarked for an economic geologist position in the

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Bureau, and Dr. Derkey believed it unjust to divert those funds to another position.

Chairman Morrison asked Dr. Derkey whether he felt the written procedures in place were followed, regardless of his agreement with the outcome. Dr. Derkey replied that basically he would agree they were.

Chairman Morrison asked if any other members of the Board had questions or wished to comment. Hearing no response, he called for a motion. Regent McCarthy moved the Commissioner's decision be upheld, and the appeal denied. The motion carried.

#### Commissioner's Report

At Commissioner Krause's request, Paul Dunham reviewed his memorandum to the Commissioner dated October 22, 1986 on Fall Enrollments, 1986 (on file). The report reveals a headcount enrollment decline at four campuses in the System, and in the community colleges. Northern Montana College and Western Montana College show an increase. Tables attached to the memorandum portray headcount and FTE enrollments for several years.

Commissioner Krause reported he and the presidents of the units are developing a statement on ways the System can and does contribute to the state's economic development. The document is being developed as much as possible in cooperation with other state agencies, with the goal it will be endorsed by the Executive Branch. The report will be brought to the Regents for review and approval at a future meeting.

President Merwin reported on NMC's involvement in a project to focus the community on the total Havre school system, kindergarten through higher education. TV and radio will be utilized, with each

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month dedicated to a different theme. Information will be sent to the Regents as the project progresses.

Commissioner Krause reported the public hearing on "Issues in Montana Higher Education" will be held on November 6-7, 1986, in Helena. The location of the hearings has not been determined. The agenda will be circulated well in advance of the hearing dates. The purpose of the hearing is to allow public in-put on the matters under consideration. No actions will be taken at the public hearings.

#### Council of Presidents

In response to the Regents' request at the Yellow Bay Workshop, President Carpenter, Eastern Montana College, reported on the impact dropping football in 1978 had on Eastern Montana College. There was a loss of approximately 50-60 students as a result of that action. He noted not all of those were athletes, but were friends of the athletes. Approximately \$33,000 was expended the first year the program was dropped to complete the commitment to students in that program, and \$21,500 the second. After the second year, student athletes who had planned to participate in the football program at EMC were able to transfer to other institutions.

President Treadway, Western Montana College, urged the Regents to review the draft report of the Task Force on Extended Education. The report was on the agenda of this meeting, but there was not sufficient time for discussion. President Treadway stated WMC hoped to begin development of some of the proposals in that report in January 1987, and views this as a major opportunity for the College.

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The Board of Public Education, Office of Public Instruction, Faculty Association, and Montana Associated Students had no report.

Chairman Morrison stated for the record the first agenda item at the December 11-12, 1986 meeting will be reorganization of the Board and election of officers.

Regular Agenda

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

Item 53-100-R1086,	<u>Staff; University of Montana</u>
Item 53-200-R1086,	<u>Staff; Montana State University</u>
Item 53-201-R1086,	<u>Retirement of Elmira S. Smyrl;</u> <u>Montana State University</u>
Item 53-300-R1086,	<u>Staff; Agricultural Experiment Station</u>
Item 53-400-R1086,	<u>Staff; Cooperative Extension Service</u>
Item 53-500-R1086,	<u>Staff; Montana College of Mineral</u> <u>Science and Technology</u>
Item 53-500A-R1086,	<u>Staff; Montana Bureau of Mines and</u> <u>Geology</u>
Item 53-600-R1086,	<u>Staff; Western Montana College</u>
Item 53-700-R1086,	<u>Staff; Eastern Montana College</u>
Item 53-800-R1086,	<u>Staff; Northern Montana College</u>

The meeting adjourned at 11:55 a.m. The Regents were guests of students of the University at a luncheon. At 1:15 p.m. the Regents toured the Mansfield Center and other selected facilities on the campus. A public forum for faculty, students, and interested persons was held from 3:30 to 5:00 p.m. in the Underground Lecture Hall.

The next regularly scheduled meeting of

October 23-24, 1986

the Board of Regents is December 11-12, 1986, on the campus of Eastern Montana College in Billings, Montana.

Chairman, Board of Regents of Higher  
Education, Montana University System

ATTEST:

*Carrol Ignazio*  
Secretary

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