1. Call the meeting to order.

2. President's report. -- Ratification of Elections

3. Vice President's report

4. Business Manager's report

5. Committee report

6. Old Business

   Special Allocations
   a. $425 counting machine Programming & ASUM
   b. $200 Soccer Club
   c. $1000 Collective Bargaining Agent & two agents

7. New Business

8. Adjourn
<table>
<thead>
<tr>
<th>Name</th>
<th>On Campus</th>
<th>Off Campus</th>
<th>Yes</th>
<th>No</th>
<th>Abstain</th>
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|---|---|---|---|---|
| Yes | 10 |
| No  | 16  | 15  | 2 |
| Abstain | 2 |
The meeting was called to order by ASUM President Greg Henderson at 7:19 p.m. in the Montana Rooms.

Last Week's Minutes - Stand as approved.

President's Report

1. Basically nothing took place at the meeting in Helena on Tuesday. The impact will be discussed Friday at the Interim Finance Committee.

2. Ratification of election results from the Saturday recount.

Stevens read the election results. They are as follows:

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
<th>Votes</th>
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<tr>
<td>President/Vice President</td>
<td>Garth Jacobson/Je</td>
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<td>Tom Jacobsen/Ste</td>
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<td>ve Carey (SFJ)</td>
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<td>Store Board</td>
<td>Christine Brummer</td>
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<td>Peter Wilke</td>
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<td>Married Student Housing C.B.</td>
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<td>Laureen France (SFJ)</td>
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<td>Martha Dille (SFJ)</td>
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There will be another recount at 6:30 p.m. tomorrow night. Any volunteers are welcome.

Henderson asked Barrett to give us a synopsis of the legal opinion requested by ASUM in behalf of Elections Committee.

Barrett said there were 13 written objections filed with elections committee and the present student government. It is hard to get another election as courts feel that those who did vote should not be denied their vote.

Henderson asked what the Board would like to do.

FITZGERALD MOVED TO RATIFY THE PRESIDENT AND VICE PRESIDENT ELECTION RESULTS. SECOND.
Urban asked, can only the Board speak at this time? No. Anyone can.

Ron Stief, who ran for on-campus Central Board (SFJ), wants a reelection as there were ballots sitting out where anyone could pick up one and fill it out and vote again.

Huntington, procedures were not handled in the best possible manner but this is the largest turn out to vote. Let the president and vice president stand and get on to business at hand.

MCCUE PREVIOUS QUESTION.
Henderson ruled out of order as only two have discussed it.

Dahlem, wait until all the comments are heard.

Ammons, asked about the absentee ballots which were denied the swim team.

Stevens, absentee ballots, you need to fill out an application a head of the election.

Mansfield, asked both Pat and Andee about absentee votes. Andee said that someone came in and that she stated she did not no if there were any provisions for absentee ballots and that the person should get ahold of Charmaine Wilson.

At this time Dr. John Wicks read the five page opinion from Barrett.

The motion before you is for the president and vice president.

There was discussion from members of the audience and the board.

Wicks, said the candidate that was left off the ballot is a matter that should be rectified.

HOLMOUIST MOVED PREVIOUS QUESTION.
SECOND.
PASSED.
Vote to ratify the president and vice president election results.
PASSED.

MCCUE MOVED TO RATIFY THE BUSINESS MANAGER ELECTION RESULTS.
HOLMOUIST SECOND.

McCue, there was a recount for the Business Manager on Saturday.
Stevens, No recount was done.
Dahlem, it was denied.
Urban, against ratifying any more of the election results.
More discussion from audience members.
JOHNSON, PREVIOUS QUESTION.
HOLMOUIST SECOND
FAILS.
More comments from the audience.
Henderson asked that questions apply to the Business Manager only.
NEWMAN PREVIOUS QUESTION
SECOND
CARRIES.
Vote on ratification of Business Manager election results.
PASSED.
JOHNSON MOVED TO RATIFY ON CAMPUS CB
SECOND

Someone from the audience brought up the absentee ballots.

Stevens, point of information, it is a fact that ballots were not available as you have to apply for an application to vote absent.

Horton said she was with Ammons when they talked to Andee and said that Andee said there were no provisions that she knew of for absentee voting.

Johnson previous question.
Second.
Fails.

Keep discussion to on campus CB.

Jon Jacobson, Steve VanDyke, Mike Dahlem, Glen Johnson, Tom Jacobssen discussed different aspects of the elections itself.

Holmquist PREVIOUS QUESTION
SECOND
FAILS.

McKenzie suggested that we do both on and off campus CB together.

There was discussion from the audience and the board.

Miller moved to amend to the main motion (on campus) to vote entirely on a new CB election.
SECOND.
Chair ruled out of order.
MCOMBER SUBSTITUTE MOTION TO CONSIDER THE ON AND OFF CAMPUS TOGETHER.
SECOND.
Chair will not accept.

Fitzgerald talked of combining the on and off.

More discussion.

JOHNSON MOVED TO HAVE A 5 or 10 MINUTE RECESS.
SECOND.
PASSED.

9:14 p.m.
MCOMBER MOVED TO TABLE THE ON CAMPUS FOR RATIFICATION.
SECOND.
FAILS.
Huntington said that there is a very good mixture coming in next year and that this thing is pulling is apart.

McKenzie moved to ratify both on and off campus CB.
GRAY SECOND
Discussion.
HUNTINGTON PREVIOUS QUESTION
MANSFIELD SECOND.

Vote on
Fails.
Motion before you is to ratify on campus CB.
No: Karr, McKenzie, McOmber, Miller, Newman, Whitham, and Huntington.
Abstain: Gray and Heald.
PASSED RATIFICATION OF ON CAMPUS.

MANSFIELD MOVED TO RATIFY ORGANIZED OFF CAMPUS CB. RECEIVED 106 votes.
SECOND.
PASSED.

FITZGERALD MOVED TO RATIFY STOREBOARD AND MARRIED STUDENT HOUSING CB.
HOLMQUIST SECOND.
PASSED.

HUNTINGTON MOVED TO RATIFY OFF CAMPUS ELECTION RESULTS.
HOLMQUIST SECOND.

Fitzgerald, we have now come to an interesting point. We have ratified all the other elections. I see a real problem if we have a new election for off campus.

Huntington, the recount is tomorrow night.

McKenzie, this is a clear case of injustice. It is obvious that one candidate was left off and did not get a fair election, because of that I would move to reject the ratification of off campus.

The chair would only suggest if this is voted down and a new election is wanted, that a solution to voting be brought to the Board and when the election would take place.

Discussion from Duffy, Reichenberg, Karr, McKenzie, and others in the audience.

Martha Dille, I would like to withdraw my contention.

More discussion from the audience.

Doggett MOTION TO HAVE MARTHA DILLE BE AN EXOFFICIO MEMBER OF CENTRAL BOARD WITH THE STIPULATION THAT SHE BE GIVEN THE FIRST OPPORTUNITY TO BECOME A REGULAR CENTRAL BOARD MEMBER SHOULD A VACANCY COME UP.
SECOND.
HUNTINGTON WILL ACCEPT AS FRIENDLY MOTION.
HOLMQUIST SECOND WILL ACCEPT ALSO.

More discussion from Fitzgerald, Johnson, Conrad, Duffy, T. Jacobsen.

Roll Call. Yes: Dale, Fitzgerald, Gray, Heald, Holmquist, Karr, McCue, McOmber, Miller, Stevens, and Huntington.
No: Brown, Conrad, Johnson, McKenzie, Newman, and Mansfield
Abstain: Doggett and Whitham
MOTION CARRIES TO RATIFY OFF CAMPUS WITH THE AMENDMENT.

HUNTINGTON MOVED TO HAVE DILLE PUT ON AS AN EXOFFICIO MEMBER UNTIL THE FIRST VACANCY.
HOLMQUIST SECOND.
PASSED.
9:55 President's Report continued.

The Student Advisory Council (SAC) Bylaws are before you.

HOLMQUIST MOVED RATIFICATION OF SAC BYLAWS.
MANSFIELD SECOND.
PASSED UNANIMOUSLY. (See the attached page)

Henderson, a few comments as outgoing president. First to the Kaimin for bringing a little humor into my life. To the staff for their assistance. The fellow officers and the Board. Thank you. For the incoming board members, you are going to have to cooperate with the officers so bury the axe before you come in. If you don't think so, look at the past Board.

Vice President's Report

Intended tonight to have the standing committees make a final report to this Board but will let them do so before the new Board next quarter.

Our committee to investigate the interrelationship of organizations failed to materialize.

The Kaimin beat us 46 to 38 in the Basketball game.

Business Manager's Report

Fund Balances approved by Budget & Finance were.

Black Student Union $300.09
ASUM Administration $937.60
UM International Folk Dancers $347.97
Aber Day Committee $1,130

Line Item
ASUM Legal Services $100

The Night Class Committee has asked for $972 to put together a questionnaire.

From Budget & Finance as a seconded with a motion to suspend the rules to give $600 to Muscular Dystrophy. later in the meeting.

Committee Reports

Mansfield, recognize at this time a member from Student Union Board, Don Bennett.

Bennett, it was voted on two to one to charge rental space to Women's Resource Center, ASUM Legal Services, ASUM Programming and ASUM. I feel it is charging the students double.

MCComber MOVED THAT CENTRAL BOARD OVERRIDE STUDENT UNION BOARD'S DECISION TO CHARGE RENT.
SECOND.
Discussion from Laurie, Newman, Olson, Johnson, Barrett, Huntington, Miller, Achenbach, McKenzie.

MCKENZIE PREVIOUS QUESTION
SECOND.
PASSED.
Vote now to overrule decision of SUB.
PASSED.

Aber Day Committee

Setup a schedule of events. The day before will be a Barbeque about 4 p.m. Jazz workshop 9 p.m. til midnight.

Old Business

Second motion from Budget & Finance to give ASUM Accounting & ASUM Programming $425 special allocation for a ticketometer.

Fleming explained the use of this ticketometer. Questions were asked by Board members and answered by Fleming, ASUM Accountant.
PASSED TO GIVE ASUM $425.

Soccer Club special allocation $200 to attend meet in California. PASSED.

Collective Bargaining special allocation for $1,000 for four months. To the student representative and two assistants. Gray will be chairman. PASSED.

New Business

Muscular Dystrophy Dance Marathon special allocation for $600. This has been done for the past three years. SUSPENDED THE RULES FOR THIS.
PASSED TO GIVE MUSCULAR DYSTROPHY THE $600.

Henderson moved to adjourn.
Adjourned at 10:30 p.m.

Patricia A. Jackson


UNEXCUSED: Royland
The Student Advisory Council (SAC) is hereby established to duly represent the students of the Montana University System before the Board of Regents of Higher Education for the State of Montana.

Section 1. The Council shall consist of the duly elected Student Body Presidents of each of the six units of the Montana University System. Each unit shall have one and only one vote. A quorum shall consist of five of the units being present at a meeting of the Council. The student member of the Board of Regents shall be an ex-officio, non-voting member of the Council.

Section 2. The Chairperson of the Council shall be elected during the month of May by plurality vote of the present members of the Council. The Chairperson shall serve as the speaker of the Council to convey reports to the Board of Regents, to chair the meetings of the Council and be responsible for the circulation of the agenda and the minutes of the meetings.

Section 3. It shall be the responsibility of the Student Regent to communicate and advise the Council and the individual units of any pertinent issues prior to the discussion of those issues.

Section 4. It is the intent of the Council to represent the best interest of students of the Montana University System. Therefore, if two or more votes are cast in opposition to a resolution, that resolution will not be presented to the Board of Regents. None of the above shall be construed to prohibit a unit from addressing the Regents on their own behalf, but it must be so stated that it is on their own behalf.

If any of the units is not represented by the Student President or his/her designee, the Council shall make note of that absence when conveying any issues decided upon during that absence.

Section 5. The Council should meet monthly during the academic year to provide a continuum of representation and to prevent the Council from being a reactionary body. The Council shall meet in conjunction with the Board of Regents including the summer meeting. Additional meetings shall be called by any of the members upon discretion of the Chairperson.

Section 6. These Bylaws shall be ratified by the Student Legislative bodies of each of the six units.
Election Results - finals

President/Vice President
Garth Jacobson / Jeff Gray  1262
Tom Jacobsen / Steve Carey (SFJ)  766

Business Manager
Larry Achenbach  975
Larry Palmer (SFJ)  897

Board of Directors
Christine Brummer  1122
Peter Wilke  1081

Organized Off Campus
J. Jon Doggett  106

Married Student Housing
Gerry Bulger  15 (write-in)

Off Campus C.B.
Carrie Horton (SFJ)  621
Laureen France (SFJ)  604
Mike Dahlem (SFJ)  601
Bill McRae (SFJ)  595
Carrol Holmgquist  597
Christ Swift (SFJ)  580
John Waugh (SFJ)  577
Toni McComber (SFJ)  569
Bill McDorman (SFJ)  559
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Chermaine Wilson
Election Results -- finals

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J. Jon Doggett 106

Married Student Housing
Gerry Bulger 15 (Write-in)

Off Campus C.B.
Carrie Horton (sfJ) 621
Laureen France (sfJ) 604
Mike Dahlem (sfJ) 601
Bill McRae (sfJ) 595
Carri Holmquist 597
Christ Swift (sfJ) 580
John Waugh (sfJ) 577
Toni McComber (sfJ) 569
Bill McDorman (sfJ) 559
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Charmaine Wilson

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Section 2. The Chairperson of the Council shall be elected during the month of May by plurality vote of the present members of the Council. The Chairperson shall serve as the speaker of the Council to convey reports to the Board of Regents, to chair the meetings of the Council and be responsible for the circulation of the agenda and the minutes of the meetings.

Section 3. It shall be the responsibility of the Student Regent to communicate and advise the Council and the individual units of any pertinent issues prior to the discussion of those issues.

Section 4. It is the intent of the Council to represent the best interest of students of the Montana University System. Therefore, if two or more votes are cast in opposition to a resolution, that resolution will not be presented to the Board of Regents. None of the above shall be construed to prohibit a unit from addressing the Regents on their own behalf, but it must be so stated that it is on their own behalf.

If any of the units is not represented by the Student President or his/her designee, the Council shall make note of that absence when conveying any issues decided upon during that absence.

Section 5. The Council should meet monthly during the academic year to provide a continuum of representation and to prevent the Council from being a reactionary body. The Council shall meet in conjunction with the Board of Regents including the summer meeting. Additional meetings shall be called by any of the members upon the discretion of the Chairperson.

Section 6. These Bylaws shall be ratified by the Student Legislative bodies of each of the six units.
Special Allocation Request: Tickometer

Proposal: Share in the cost of a ticket counting machine: 1/3 ASUM - PC, 2/3 Field House/Athletic Department

Total cost of machine: $3,045
Estimated useful life: 10 years

ASUM portion: 1,000

Sources of ASUM Funds:
- Program Council Revenues: $500
- Special Allocation: 425
- Sale of Print Dryer: 75

Total: $1,000

Estimated Savings - Purchase of Tickometer:

<table>
<thead>
<tr>
<th>Labor Hours</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-concert:</td>
<td>$18</td>
</tr>
<tr>
<td>Concert night:</td>
<td>12</td>
</tr>
<tr>
<td>Post concert:</td>
<td>6</td>
</tr>
<tr>
<td>Total for 1 concert:</td>
<td>$36</td>
</tr>
<tr>
<td>x Average number of concerts: 1.5</td>
<td>$54</td>
</tr>
</tbody>
</table>

Total cost per year: $540

Versus
- Depreciation expense new machine: $100
- Average annual cash savings: $440

Additional Information:

Footnotes:
1. Total price includes cost of basic machine $2,790 for extra small materials (i.e. tickets) based upon Pitney Bowes price quotation from State Government price list for July 1, 1977 through June 30, 1978. Price also includes an imprint option at $255 which could be used to endorse checks or date tickets. Possibilities include printing a rudimentary type of ticket for campus events such as movies or ballroom shows. Price also includes a portable stand at $274.

2. Estimated useful life provided by Pitney Bowes representatives was 20 years. Use of the 10 year figure represents a conservative estimate. Possible salvage value is ignored.

3. Sale of print-dryer is being arranged through the University Center to the Art Department. Chapman has obtained an estimated fair market price quote of up to $95 for this particular model.

4. Computation details:
   - Pre-concert: 20,000 tickets are counted twice when received to insure that proper amounts of tickets are received, printing is correct. These are counted by Program Council personnel.
     6 hours x $3.00 per hr. (average wage) = $18
   - Concert night: Approximately 10,000 unsold tickets (deadwood) are counted the night of the show by the box office manager and his assistant in order to settle with the promoter. (Settlement is made on the basis of unsold tickets.)
     4 hours x $3.00 per hour = $12
The promoters representatives also count tickets at their discretion.

Post concert: An audit is made of the concert settlement after each performance by counting the unsold tickets in the ASUM offices.

\[2 \text{ hours} \times \$3.00 \text{ per hour} = \$6\]

5. Depreciation computation: 

\[
\frac{\text{ASUN Allocation}}{\text{Estimated years of useful life}} = \frac{1,000}{10} = \$100 \text{ per year}
\]

6. Average annual cash savings ignores the time value of money over a 10 year period.

7. The estimated annual cash savings $440 does not include the following:

Any estimates of savings on Ballroom events or shows by the Montana Masquers, other events whose tickets are counted, any estimated income from rental possibilities to other departments on campus - notably the Controller's Office during registration.

The machine has the ability to count not only tickets, but checks and currency. Thus, it should be in demand at least during the peak period of fee collection.

Finally, no estimate has been made of possible wage savings through reduced time for Program Council cashiers, the night of the show.
OPINION REQUEST: Discuss the recent ASUM election from a legal standpoint in light of registered complaints and comment on the advisability of a new election and alternatives possible.

OPINION: The Central Board should approve the results of the Presidential/Vice-President election.

The Central Board should approve the Business Manager election results, although if it chose to hold a new election it would probably not be in violation of the prevailing law.

The Central Board must rectify the error which occurred in the off-campus Central Board election, either through a new election of the full board, or through an off-campus only election, either of which could be legally done.

In any new election the constitutional and by-law requirements regarding publication of election dates and names of the candidates must be met again.

This is a legal opinion, written with a view towards what courts have done when faced with election irregularities in state and local elections. It is not binding upon Central Board, but only meant to indicate which course of action would most likely be upheld by a court.

It is important to realize from the outset that errors and irregularities are not unusual in any election. This includes Federal and State elections where irregularities and errors are frequent. Over the years the courts have had to deal with many election challenges. As a result a series of rules have been laid down by the courts. These rules, if put together, would run something like this:

There is a tremendous presumption in favor of the results of an election. If someone seeks to challenge that election they must present tremendous evidence. A new election will not be called simply because errors or irregularities exist, they exist too often. The main reason that courts are hesitant to call for new elections is because they feel that a strong duty is owed to the great majority of people who legitimately cast their vote on election day, unaffected by irregularities and errors. In other words, if the successful candidate really was the choice of the majority, the errors and irregularities must be disregarded. It takes a very huge error to be fatal to an election. Not only that, the mere possibility of irregularities is not enough. The challengers must show that the irregularities actually occurred, not merely that there was an opportunity for them to occur. Once again, the reason is to protect the hundreds and hundreds of ASUM voters who cast their votes correctly. What if a new election were held and although there were absolutely no errors, only half as many people turned out to vote. Would the new winners be any more qualified to represent the students, than a government that was elected by a much larger number of students, with some irregularities present? To take away legitimate votes which were cast is serious business; tremendous, provable errors must be shown before this can even be considered.
THE ALLEGED IRREGULARITIES AND ERRORS

The complaints filed against the election are of two kinds; errors on the part of campaign officials, and ballot irregularities. Thirteen individual written complaints were filed, 3 were solely for recounts, and the remaining 10 were divided between ballot irregularities and campaign officials' errors.

ERRORS ON THE PART OF CAMPAIGN OFFICIALS

Election officials were accused of the following conduct:

1. Offering 2 ballots to a voter
2. Allowing 1 person to run a polling place instead of two
3. Allowing both excandidates or persons with pronounced political opinions to work various stages of the election
4. Denial of absentee ballots
5. Denial of an off-campus ballot to a voter

Under the prevailing law none of the above complaints are sufficient enough to warrant a new election of any kind. Taken together they present evidence that stricter standards should be observed in conducting elections, but not enough to warrant new elections this time. It is certainly not correct procedure to offer 2 ballots to a voter, but this error was an honest mistake on the part of an official. Honest mistakes are going to occur in elections. These honest mistakes will not void an election. Even if the mistakes are fraudulent the votes of the electors should not be invalidated if it is possible to avoid doing so. Courts are hesitant to disenfranchise voters who are totally innocent of wrongdoing. (Stackpole v Hallahan, 16 Mont 40, 40 P 80)

As to the presence of only one official at a polling place, or as to excandidates or others with political opinions running polling places does not appear to be improper at all. It is quite logical that the kinds of persons who get involved in political campaigns are the same kind of persons who would volunteer to work a campaign. In the absence of proof of wrongdoing, it is improper to infer anything against these election workers. The only legal requirement seems to be that some election official must be present at the voting place. An election run without an official present might be questionable, but mere irregularities or deficiencies with respect to the appointment or qualification of the election officers are usually held not to render the election invalid. (Johnson v Little 176 Ky 505, 196 SW 156, State ex rel VanArmige v Taylor, 108 NC 196, 12 SE 1005, Weil v Newbern, 126 Tenn 223, 148 SW 680, Hughes v Roberts 142 Ky 142, 134 SW 168, Mosiman v Weber, 107 Neb 737, 187 NW 109, Moore v Oklahoma City, 122 Okla 234, 254 P 47.)

Denying ballots to a voter, and denying absentee ballots are quite serious complaints. However, once again, the errors are not the kind that would legally require a new election. Although 2 denial of ballot complaints have been registered, it does not appear that a substantial number of students have been deprived of their vote. This is what would be required.
The refusal of election officers, if acting in good faith and not fraudulently, to allow qualified voters to vote, will not avoid the election. (People ex rel. Williams v. Cicott, 16 Mich 283; People ex rel. Boyer v. Teague, 106 N.C. 576, 11 SE 665; State ex rel. Wold v. Hanson, 87 Wis. 177, 58 NW 237.) An election will be avoided when and only when, there is injected into it the insurmountable uncertainty you get when enough voters are rejected that had they all voted for the unsuccessful candidate the final result would have been changed. (Briscoe v. Between Consol. School Dist. 171 Ga. 820, 156 SE 654; Coggeshall v. Des Moines, 138 Iowa 730, 117 NW 309; Reese v. Dempsey, 48 NM 485, 153 P2d 127; People ex rel. Van Bokkelen v. Canaday, 73 NC 198; Martin v. McGarr, 27 Okla 653, 117 P 323.)

BALLOT IRREGULARITIES

1. The name of a candidate for an off-campus seat was left off the ballot for a portion of the election, and for a portion of the election the candidate was listed on a separate ballot sheet, and the remainder of the election the candidate was on a ballot along with the rest of the candidates.

2. Two persons were allowed to vote even though the student I.D. presented was not valid.

3. One validation machine was allegedly not working for voter identification.

Once again, 1 person being allowed to vote illegally will not void an election. If large numbers of persons had stepped forward with similar reports, it could present a possible challenge, as is though, we are presented with the possibility that others may have voted wrongly. The burden of proof in an election contest rests on the contestant. This requirement would also apply to the supposed validation machine which did not work. It is proposed that because the machine was not validating properly, persons could have voted a second time at another polling place. Again, a mere possibility of an irregularity will not void an election.

Where an election is contested on the ground of illegal voting, the contestant has the burden of showing that sufficient illegal votes were cast to change the result. (Morgan v. Bd of Supervisors, 67 Ariz 133, 192 P2d 236.) Where it is not possible for either party to prove how the alleged illegal votes affected the result, the contestant, having the burden of proof, must fail. (Hamilton v. Marshall, 41 Wyo 157, 282 P 1058)

Every reasonable presumption will be indulged in favor of the validity of an election. (Leasure v. Beebe, 32 Del 210, 83 A2d 117.) Ballots received and counted are presumed to be legal. (Leasure, supra) This includes a further presumption that votes were legally qualified. (Webb v. Bowden, 124 ARK 244, 187 SW 461.)

There is no evidence that large numbers of persons voted illegally either by not being qualified to vote at all, or by voting more than once. Central Board should do what it can to be sure possible irregularities do not take place in the future, but it does not appear that those mentioned so far should void an election. Let us assume for the sake of argument, however, that illegal votes were cast. Where illegal votes have been cast, the first effort should be to purge the poll by proving which ballots are illegal. (Heyfron v. Mahoney, 9 Mt 497, 24 P 93), and if this can be done
the illegal ballots are rejected. But for a court to hear the matter, a
charge that illegal votes were cast in favor of a candidate is necessary.
The party challenging the election has the burden of showing for which candidate
the illegal votes were cast.

Once again the conduct of election officials comes into play. Poor
identification procedures and bad ballot handling were unquestionably present
to some degree, but as the supreme court of Montana has said:

When opportunity has been given to all electors alike to express
themselves freely, any irregularities in the performance of their duties
by election officers will not destroy the votes of those who have cast
their ballots in the manner as provided for by law. (State ex rel Wolff
v Geurkink, 111 Mont 417, 109 P2d 1094, 133 ALR 304.)

The final complaint to be dealt with is that of the Central Board
Candidate who was left off of the ballot. This is a serious complaint
which cannot be dismissed quickly or easily. Even when the mistakes in
an election effect the ballot itself, courts have often refused to over­
turn the results of an election. People have been wrongly placed on a
ballot, wrong names have been used (ie Josephine instead of Joseph),
ununiform ballots have been used, candidates names have been misspelled,
dead candidates have been put on the ballot (and want on to win!) all
without the court voiding the election and calling for a new one. In
other words, there is a possibility that Central Board could ratify this
election in spite of the ballot deficiency. The Student Government could
strive to make the candidate whole by offering her an ex-officio board
position, with a guarantee that she fill the next vacant seat. A court
could consider this along with everything else in looking at an election
challenge. In addition, some courts feel that a legislative body can
cure any deficiencies in an election when that body had control over the
particulars of the irregularity to start with. Where an election has
not been conducted in accordance with the law, it is within the power of
the legislative body, acting within constitutional limits, to legalize it
notwithstanding the defects. Courts take the view that since the legislature
had the power to change the details involved in the irregularities, it
has the power to cure their non-observance. St. Joseph Twp v Rogers,
16 Wall (US) 644, 101 P 1016). In other words, Central Board could choose
to ratify the entire election, including the off-campus CB results, and
still have some legal backing. However, it would not be the advice of
this opinion to do so. Regarding the mistakes on a ballot, the supreme
court of Montana has said..."However, if the mistakes in the ballot operate
to prevent the holding of a free, fair, and honest election, courts will
declare the election void." (State ex rel Wolff v Geurkink, 111 Mont 417,
609 P2d 1094)

It is hard to dismiss a complaint from a candidate who was running
with a slate that won the off-campus election so overwhelmibly. One
of the tests a court will look at is whether the impropriety in the ballot,
ha it not existed, would have changed the results. In this case, the
probability that the results would have been changed is too strong to ignore.
RECOMMENDATIONS

FOR ALL OF THE REASONS OUTLINED ABOVE, I WOULD RECOMMEND, FROM A LEGAL STANDPOINT THE FOLLOWING:

1. that the ratification of the election be done separately, by district and office.

2. that the Presidential/Vice-Presidential results be confirmed and ratified.

3. that the CB confirm the results of the business manager election, and ratify the results. If, however, the Central Board chooses to hold this election again, there would be enough law to withstand a challenge from the presently successful candidate.

4. that in the event all offers from CB to Ms. Dille are refused, and the complaint is not withdrawn, that steps be taken to hold all or a portion of a new Central Board election.

RECOMMENDATIONS AND ALTERNATIVES AS TO A NEW CB ELECTION

The Central Board has two alternatives, a new election for the entire Central Board, or an election for off-campus only. In either case, the notice requirements of the Constitution and By-laws must again be met. Candidates names will have to be listed in the Kaimin again.

Although the Central Board has the power to order an entire new CB election, I was asked to list possible alternatives, and some exist. An election might possibly be held allowing all students to vote for the new off-campus delegates. This would obviously mean that on-campus votes could, in the new election, cross-over, and vote a second time for the same Central Board. There is some precedent for this "double voting" in the present Constitution in that the now defunct Fall election allowed on-campus people to vote in the Fall for on-campus delegates, and then during the spring election to "cross over" and vote in another district. In other words our present constitution contains a provision for on-campus students to vote to carry greater weight.

As an alternative to a full CB election, the following is a possibility. An unorganized, off-campus election could be held, and at every polling place the eligibility requirements for voting could be conspicuously posted. These would say that only persons who did not vote at all in the previous election, or those that voted in the unorganized off-campus election, would be eligible. Each voter would be required to sign a short "DECLARATION OF ELIGIBILITY" which would state that he understood the eligibility requirements and that he met them. Such Declarations have been held legal. Certification (Declaration) of legal qualification: It is generally held that the oath taken by a voter that he is qualified is the conclusive evidence on which the officers must act, that they are not at liberty to refuse the vote after the oath is taken, and that they have no power to pass on the question of the truth or falsehood of the oath. (Lane v Mitchell 153 Iowa 139, 133 NW 381, Wolcott v Holdomp, 97 Mich 361, 56 NW 837.)

This alternative would appear to be proper, should the CB choose to take it.

Bruce B. Barrett 3/8/78
Montana Student Lobby Bylaws as Unanimously Accepted
By Student Advisory Council on February 27, 1978

I. Name and Structure

A. The name of this project shall be the Montana Student Lobby, hereinafter called the MSL.

B. The MSL will be governed by a steering committee that will consist of the six (6) institutions' Student Body Presidents and the designated representatives of the legislative body of each campus.

C. The votes will be apportioned as follows: UM - 3, MSU - 3, EMC - 2, NMC - 2, WMC - 2, and Tech - 2.

D. A quorum will constitute five (5) of the six (6) delegations being represented. Proxy votes will be honored if cast by regular members. In the event that a regular meeting cannot be held, a telephone quorum shall be acceptable. No unit shall be forced to make a decision in less than 24 hours.

E. The Chairman of the MSL Steering Committee shall be elected from its membership to serve, with voting rights, for a 1 year term.

F. The Steering Committee shall be the contractual body of the MSL, to be formed in May and serve through May of the following year.

G. There shall be a Montana Student Lobby representative hereinafter called the lobbyist.

II. Duties and Responsibilities of the Steering Committee

A. The Steering Committee will formulate, through their respective legislative committees, student oriented legislative objectives to be lobbied.

B. The Steering Committee shall pass all legislative objectives with a 2/3 majority. All other votes shall follow Roberts Rules.

C. All objectives shall be accepted by the Steering Committee before being lobbied on by the MSL.

D. The Steering Committee shall be responsible for hiring a lobbyist, in accordance with Federal Equal Opportunity requirements, to be compensated in a manner to be determined by the Steering Committee.

III. Duties of the Lobbyist

A. To communicate with all six institutions at least weekly.

B. To carry out the objectives of the Steering Committee.

C. To be the coordinator of the MSL.
IV. Funding

A. The costs of this program will be assessed to the respective units on a per student per institution fee not to exceed one dollar.

B. All monies collected in excess of program requirements shall be returned to the units in the same proportion it was collected.

C. Funding will be on a year-to-year basis with no long-term commitment to be explicit or implied by ratification of these bylaws.