

THE SENATE OF MICHIGAN TECHNOLOGICAL UNIVERSITY

Minutes of Meeting No. 203
3 November 1993

Synopsis: The Senate

- (1) heard a report from the Committee on Conflict of Interest;
 - (2) approved minutes of Meetings 198 and 199;
 - (3) approved a constituency petition from A. Hein;
 - (4) approved constituency status for the position of Affirmative Action Officer;
 - (5) approved the emergency status of Proposal 5-94;
 - (6) amended and adopted Proposal 5-94, Interim Protocol: Designating Eligible Senators for a Limited Vote;
 - (7) approved Proposal 4-94, Temporary Suspension of the 3-Year-and-Out Policy.
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I. Call to Order

President Bornhorst called the meeting to order at 5:30 pm on Wednesday, 3 November 1993, in Room B37 of the Electrical Energy Resources Center.

II. Roll Call of Members

Secretary Keen called the roll. 32 senators or alternates were present. A senator or alternate representative from AF ROTC was absent. These liaison members were absent: Dean of Engineering, Dean of Sciences & Arts, Computer Technology Services, Undergraduate Student Government, Graduate Student Council, Staff Council.

III. Recognition of Visitors

Recognized visitors were Bruce Seely (Social Sciences), Terry Reynolds (Social Sciences), Fredrick Dobney (Provost), Ruthann Ruehr (Humanities).

IV. Agenda Adjustments

Bornhorst referred to the circulated agenda [Appendix A of these minutes], and announced that a presentation from the Conflict of Interest Committee would be heard before approval of the minutes, and that New Business would be considered before Old Business. Bornhorst asked for objections to the adjustments; there were none.

V. Presentation on Conflict of Interest

Bornhorst said the Senate officers and Provost Dobney had agreed that proposals or other matters could be submitted to the Senate by any campus committee and by any group or individual from the students, faculty, or administrators. Bornhorst said the Provost had agreed further that any matter that falls within the range of responsibilities and authority of the Senate must come through the Senate. Bornhorst introduced Bruce Seely, Chair of the University Conflict of Interest Committee.

Seely distributed copies of the "Third Draft: Working Principles Concerning Conflict of Interest" [Appendix B of these

minutes] and said his intent was to make the Senate aware of on-going work. Seely said that Provost Dobney had reconvened the Conflict of Interest Committee which previously had been convened by Provost Powers to examine issues related to Ventures. The Board of Control had directed the assembly of the Committee after seeing the Auditor General's report on Ventures; the report contained a strong indictment of the university for failure to have a conflict of interest policy with any teeth in it.

Seely said the group was assembled originally for reasons other than dealing with conflict of interest. One of the committee's first actions in May was to confer with Senate President Sharik; the Committee intends to submit any proposal it develops to the Senate. The Committee members are T. Collins, S. Kauppi, W. Melton, K. Pelc, C. Selve, J. Soper and Chair B. Seely; L. Julien is currently a non-active member. The Committee has prepared a set of working principles on conflict of interest, has gathered information from a number of universities, and is preparing to disseminate the information through the Lode, Tech Topics, and a Tech Tea. The Committee seeks reactions about the areas identified as needing attention in terms of conflict of interest.

Seely asked the Senate to consider the representative balance of the Committee, with only one individual from the Engineering College. Seely said the Committee's major task is education about the issues. The previous administration at least encouraged if not condoned conflict of interest. Seely said he intended to report periodically to the Senate.

Heuvers asked whether issues like faculty dating of students would be considered by the Committee. Seely replied that the Committee was resisting efforts to become an ethics committee, and was mainly concerned with policies of research and consulting.

Bornhorst thanked Seely for his presentation.

VI. Approval of Minutes

Bornhorst said that copies of the minutes of Senate meetings were being distributed only to Senators to reduce costs, that copies of approved minutes would be sent to the administration, and that eventually Senate minutes would be available on-line even in draft form. The minutes of Meeting 198 held 5 May 1993, and of Meeting 199 held 16 September 1993 were accepted and approved without correction.

VII. Report of the Senate President

Bornhorst reported that Provost Dobney had been notified that the Senate had approved Proposal 3-94 for the formation of a Fine Arts Department. The administration had been given the list of Senate standing committees.

Several issues had been referred to Senate standing committees, including (1) Senate representation on a fringe benefits committee, (2) a request by G. Mroz to establish a flexible spending account, (3) a request by G. Mroz to investigate fringe benefit rates on summer compensation for faculty, and (4) some memoranda on smoking policy sent from the campus Occupational Health & Safety Office to the Provost and from the Provost to the Senate. The Senate's Institutional Planning Committee had been asked to consult with Staff Council on the issue of smoking on campus.

The Staff Council had been contacted about smoking policy and evaluation of administrators. Coordination with Staff Council was important to ensure that all individuals on campus had some group representation.

According to the Provost, Proposals 2-92 and 3-92, Terms of Office for Department Heads/Chairs and for College Deans, were in effect.

The Provost has asked the Senate to re-address Proposal 7-92, Search Committees for Deans, because (1) it is inappropriate to permit an untenured faculty member to chair a search committee for

a dean, and (2) resources for managing a search are more likely to be available to a head/chair or dean than to an assistant professor. Davutyan asked if the issue concerned the possibility of his chairing the search committee for the SBEA dean. Bornhorst said it did not. Hubbard said the issue might be taken care of if a proposal for college governance were approved.

The Provost has obtained a new legal opinion about Board of Control Policy 16.6. Jambekar had pointed out last year [Minutes, Meeting 195, p.3746] that this policy excluded the Senate from acting on financial issues in the university. The new legal opinion is that faculty can interact with the administration on such issues, but not with the Board of Control. The new policy allows faculty to serve on investment committees, etc. Further modifications to the policy may occur as part of the revision of the Faculty Handbook. Leifer asked whether this policy statement conflicted with the constitution's statement that the Senate might approach the Board of Control on any issue which had been vetoed by the

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administration. Bornhorst said that perhaps there was a conflict, but the Board's policy evidently did not prevent faculty from serving on a finance committee mandated by the Board of Control. Heuvers said the new constitution listed the specific areas in which the Senate might approach the Board, and that matters of finance were not on the list.

The Flow Chart (Proposal 4-93) [Appendix C of these minutes] would be provided to the Board of Control. Some minor editorial changes had been made to the chart since its approval, including substitution of "Senate Executive Committee" for "Senate Executive Council", and of "Deans & Directors" for "Academic Council".

The Provost had assured the Senate officers that any policy changes produced during the revision of the Faculty Handbook would be sent to the Senate for approval.

The officers had discussed with the Provost and with the Senate Executive committee the proper "home" for approved Senate proposals. The administrative decision is that they be incorporated in the University Policies and Procedures Manual. This will require a review of all past Senate proposals.

S. Kauppi recently was named Interim Affirmative Action Officer. Bornhorst had represented the Senate on the search committee.

Senators were asked to inform the Senate Assistant of any committees on which they served as Senate representatives. The Senate needs a list of all the pies in which it has its fingers.

Bornhorst asked for questions from the floor. Davutyan asked about the case of the assistant professor chairing a search committee for a dean. Bornhorst said the specific case was the search committee for the Dean of Engineering chaired by F. Morrison. Provost Dobney commented that his concern was not Morrison's performance, but rather the fairness of putting such a work load on any untenured assistant professor.

VIII. Reports of Committees

A. Executive Committee. Bornhorst reported that the Executive Committee had discussed procedures for proposals based on the constitution. Bornhorst said that the Executive Committee would review proposals originating outside the Senate, and decide whether these proposals would go to a Senate committee or go directly to the Senate floor for immediate action. Ideas for Senate action should go to the Executive Committee for referral to Senate

committees for consideration. Further, the Committee recommends that all proposals sent to the Senate floor have attached a "tracking history", including receipt date, origination, committee action, etc.

Janners asked how frequently the Executive Committee met. Bornhorst replied that the Committee met as necessary, and that the Committee had given the Senate officers the option of making initial choices of proposal disposition when these seemed clear.

Bornhorst distributed a provisional listing of membership of Senate standing committees [Appendix D of these minutes]. Corrections to the list included the election of McKimpson as chair of the Research Policy Committee, and that Kawatra and Bradley should be exchanged between the Finance and Research Committees.

Bornhorst noted that the Finance Committee had voted to allow the inclusion of Akin, Thayer and Gale as non-Senate members, and the Executive Committee had recommended the Senate approve this. Hubbard noted that several members of the same department were serving on the Finance Committee and asked whether this was appropriate. Bornhorst said that composition of all committees was subject to Senate approval. Heuvers said that all committees depended on the expertise of the members, and there was no reason not to include members as needed. Bornhorst said that the Senate had to insure that no committee was stacked by any department. Grzelak said that the Finance Committee welcomed having several members from the Business School.

Heuvers suggested that the non-senators serving on committees should have a term limit of one year renewable. Leifer said the history of committee service indicates volunteer service should be welcomed. Bornhorst said that the increased prominence of the Senate should attract members to committees. McKimpson said that non-senators D. Reed, G. Podila, and G. Jayaraman wanted to continue on the Research Policy Committee. Bornhorst asked how the Senate wished to handle such requests. Roblee suggested that committee chairs should merely inquire of the Senate if there were objections. Bornhorst said this was acceptable. Bulleit asked if the Research Policy Committee had objections to the three applicants. McKimpson replied that it did not. The Senate raised no objections to their inclusion.

Bornhorst distributed a list of issues [Appendix E of these minutes] under consideration by the standing committees of the Senate, and noted that the list would be revised continually. He pointed out that revision of the Faculty Handbook is listed under the Academic Policy Committee, but that various issues to be considered in the revision would logically have to be considered by other standing committees. Bornhorst stated that subcommittee formation and membership would be determined by the committees, and would not necessarily have to come to the Senate floor.

Arici asked if the committees would set the priority of issues. Bornhorst replied that the priorities should be set by each committee in consultation with the Executive Committee. Leifer said that the Fringe Benefit list of issues was shown as various, but that he had given Bornhorst a list. Bornhorst replied that Leifer's list was so long that it would have taken another page.

B. Board of Control Relations Committee. Bornhorst said that the Senate needed to decide what type of forum should take place at the next Board meeting, when it would occur and who would be involved. Bornhorst said that he had requested a meeting of senators with the Board at the November meeting. Hubbard, Heuvers, Glime, Mroz, Sewell, and Kawatra volunteered to meet with the Board.

IX. New Business

A. Senate Constituency. Bornhorst said that the new constitution defines the constituency, but that the task of listing constituent

names is incomplete. The Senate is now maintaining its own list rather than relying on the administration. Bornhorst said that memos had been prepared with a listing of constituents for each senator to check.

Heuvers said that according to the Minutes of Meeting 198 [Minutes, p.3911], he had stated that the title of Affirmative Action Officer needed to be added to the list. Bornhorst said that the Senate determines its own constituency, and that McKimpson had petitioned the Senate to add Allison Hein to its list [Appendix F of these minutes]. He added that the Executive Committee had considered the petition and recommended approval by the full Senate. Bornhorst said that Hein was a Research Engineer/-Scientist-1, a title that is not on the listing of constituents in the By-Laws of the Senate. Bornhorst said that the addition of the Affirmative Action Officer could also be considered.

Heyman MOVED that Allison Hein be added to the list of constituents. Glime seconded the motion. Beck asked whether all the other Research Engineer/Scientist-1s wanted to be considered as constituents. Bradley said it would be ridiculous if the Senate would have to consider individual petitions from each member of this group. Bornhorst said that a group of petitions might be considered simultaneously.

Leifer said that admitting one individual with this title was setting a precedent, and would make it difficult to refuse another individual with the same title in the future. Bornhorst said that successful petitioners might use their Senate constituency status as leverage in applying for position reclassification and promotion. Carstens said that the Senate should stick to its guns in the classification, and that departments should reclassify individuals

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who are performing at higher levels.

Heyman said that this petition should not be considered in completely abstract terms; the petition comes from an individual who has been an active participant in the Senate and its committees. Glime said that the classifications across campus were not uniform, and the constitutional provisions for individual petitions were designed for such cases. Grzelak said that the Senate could not spend its time looking at individual cases. McKimpson said that this petition was unusual because Hein had been active in the Senate, and the admission to constituency would clarify a personal ambiguity. Heuvers said that service on committees did not require constituency status, so that Hein could continue serving on a committee. Bornhorst said that Hein was currently an alternate senator, which required constituency status.

Hubbard said the Senate was being asked to judge a person's work, which is not what the Senate should be doing. Job reclassification should be done by an individual's supervisor, not be the Senate. Heuvers said that the constitution required that the petition for constituency status be made by the petitioner's department. Bornhorst responded that the petition for Hein had been made by her department. Kawatra said it should not be the Senate's job to consider a person's classification, and that it would take too much time to second guess a supervisor's judgement.

Mroz said that because this person has been previously active in the Senate, she might be grandfathered in at this point. Roblee said the issue being avoided was that of being inclusive or exclusive. Bulleit asked whether Hein would be represented by any body on campus. Bornhorst replied that she would be represented

by Staff Council if the petition were denied.

Heyman said that the Senate was not being asked to decide what Hein's duties were, nor what her title should be; the Senate was being asked whether it made sense to grandfather in somebody who was already serving on the Senate. He added that the Senate had no business deciding on the individual's classification, but only whether this person could continue serving on the Senate. Heuvers said that the constitution implied that the petition for constituency status was to be judged based on the individuals' duties, and that this petition seemed to be a request based on the individual duties. Bornhorst read the pertinent sections of the petition. Glime said that the provision for petition was inserted in the constitution because the Senate could not know across the campus and through time what job titles might fit the criteria for constituency status. Glime added that the department could best determine whether an individual was meeting the criteria.

Heuvers MOVED that discussion be terminated; Mroz seconded the motion. The motion PASSED in a show-of-hands vote. The motion to grant Allison Hein constituency status PASSED in a show-of-hands vote, 22-5.

Heuvers MOVED that individuals with the title of Affirmative Action Officer be included as constituents of the Senate. Glime seconded the motion. Heuvers said that the exclusion of the title from the By-Laws was an accident, as he had stated in Meeting 198. Carstens asked if the position had been included previously. Keen said the position was not included under the previous constitution. Sewell asked under which Senate group the position would fall. Bornhorst said that one of the groups was appropriate. Boutilier asked whether the Affirmative Action Officer was in an oversight position. Bornhorst said that currently the office oversees two individuals. Boutilier asked whether this was a conflict of interest. Bornhorst said that department heads are now considered Senate constituents. Heuvers said the office should be part of the constituency group of important decision-makers. There was no further discussion. The motion PASSED without opposition in a voice vote.

B. Emergency Proposal 5-94: Designating Eligible Senators.

Bornhorst referred to the Proposal [Appendix G of these minutes] distributed with the agenda and stated that the Senate had to clarify which senators could vote on a proposal, because the new constitution lacks clarity about Senate voting. The interim protocol is designed to allow inclusion of all affected units in each vote.

Bornhorst noted that the full Senate voted on Proposal 16-92, Departmental Governance, but that according to the constitution only academic degree-granting departments should have voted. The vote might therefore be considered unconstitutional; however, the discussion of the Senate made it clear that the Library and the ROTC departments were to be included in the Proposal. Bornhorst noted that the constitution gives academic degree-granting departments the responsibility to determine charter provisions for these departments or other course-offering units, effectively forcing charters on units who have no vote on the matter.

Bornhorst said that the vote on Proposal 3-94, Fine Arts Department, followed the constitutional provision for voting only by academic degree-granting departments. Bornhorst said it was illogical to create a course-offering unit without allowing the other course-offering units to vote on the matter.

Bornhorst said the constitution stated "...senators from academic degree-granting departments shall vote on matters..." Bornhorst said that this statement did not exclude others from voting on these matters if appropriate. The Senate officers had written the protocol of Proposal 5-94 to provide an efficient mechanism for determining the eligible senators. Bornhorst

suggested adopting the protocol and amending it as needed, with a view toward making it part of the By-laws eventually. Bornhorst asked for a motion to consider Proposal 5-94 under the conditions for an emergency proposal.

Bradley MOVED to consider the proposal under the constitutional provisions for an emergency proposal. Carstens seconded the proposal. There was no discussion of the motion, which PASSED by voice vote.

Heuvers MOVED to adopt Proposal 5-94, and McKimpson seconded the motion. Beck said that Protocol Item 7 was an over-ride of the constitution; the constitution was clear. Heuvers said that in the case of Proposal 3-94, the department being formed was in fact represented by a senator. Heyman said that in the long run the Senate would have to include the other course-offering units with degree-granting departments; they were not research divisions, but were obviously academic units. Heyman said that in the short run the interim protocol was the best way of handling matters.

Heuvers said the constitution permitted an eligible group to submit a referendum if the group disagreed with some Senate action, and only the eligible group would vote in the referendum. Bornhorst said that the eligible group would be the obvious group to decide who would vote. Heuvers said that a referendum vote should only be among the group that the constitution allows to vote. Bornhorst said the eligible group should be the one to decide who gets to vote in the referendum. Heuvers said that even if the eligible senators voted to enlarge the group voting in the Senate, a referendum should take place only among the constituents that the constitution permits. Bornhorst said the constitution does not prohibit expanding the eligible group, but that it guarantees that particular groups do get to vote on some matters. Bornhorst said that nowhere does the constitution state that the minimum group may not decide to expand the voting group.

Beck MOVED to amend Item 7 of the protocol to read "This protocol does not prohibit the Eligible Senators from voting to expand groupwise the subset of Eligible Senators for a vote on any Proposal." The motion was seconded. Hubbard asked for the meaning of "groupwise". Keen said it was his own neologism. He added that the statement was intended to prohibit the eligible voting group from adding single departments to the voting subset; for example, all the research departments could be added to the voting subset, but IMP could not be added by itself. Hubbard said the meaning of the word was not obvious, but that he could not think of a simpler wording. Keen said that the Minutes would establish the meaning. There was no further discussion of the

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amendment, which PASSED by voice vote without opposition.

There was no further discussion of the Proposal. The motion to adopt was PASSED by voice vote with no opposition.

X. Old Business

A. Proposal 4-94: Suspension of 3-Year-&-Out Policy. Bornhorst referred to the Proposal [Minutes, Meeting 202, p.4064-4069], and asked the senators of the other course-offering units whether any personnel from their departments would be affected by the policy. Fynewever said that perhaps one person listed as an "instructor-/advisor" might be affected. Bornhorst asked Provost Dobney to comment. Dobney asked for the identification of the person. Fynewever said it was herself. Ruehr said that Jamison was the name on the list from the Provost's office. Fynewever said Jamison

was a trainer.

Bornhorst said the purpose of the question was to determine who were the eligible senators for voting on the Proposal. Sewell said that the question does effect students, and cited the instance of an instructor of psychology. Bornhorst said that the humanities department would be included in the vote. Heyman said that the conversation with Fynewever demonstrated that the Proposal is relevant to the other course-offering units. Bornhorst said his recommendation was that, under the interim protocol of Proposal 5-94, senators eligible to vote on Proposal 4-94 were those from academic degree-granting departments and from other course-offering units. He asked for objections to the recommendation; there were none.

Hubbard MOVED to adopt Proposal 4-94, Suspension of 3-Year-&-Out Policy. Grzelak seconded the motion. Leifer said that the fundamental problem was hiring useful but not fully qualified persons through the back door, and that departments who needed to hire such persons needed a new employee classification. He said that a third reappointment after two three-year appointments resulted in a tenure situation, and denial of tenure then was a violation of AAUP guidelines.

Reynolds said that in the cases of sabbatical or sick leaves, he had two choices: either not to teach courses (which could delay graduations) or hire somebody part time. He stated that the Greater Houghton-Hancock Metropolitan Area does not have available a large part-time hiring pool, and that he would have a problem covering courses next year. Reynolds urged suspending the policy for a year until the Faculty Handbook could be rewritten and the implications and problems could be worked out. Bulleit said the Proposal calls for a temporary suspension only.

Grzelak said that the current Faculty Handbook lists instructor with the regular faculty ranks, and instructors are not labelled as temporary faculty. Bornhorst invited Provost Dobney's comments. Dobney said that there is confusion now about the roles of instructors, lecturers and adjunct faculty, and that this confusion ought to be addressed as part of the revision of the Faculty Handbook. Dobney said he would welcome the Proposal, but pointed out that it may not be possible to suspend Board of Control policy. Dobney added that instructors currently get letters of appointment specifying that the term of appointment is for a single year.

Beske-Diehl said that it was difficult to determine who fell under the policy, and that a consistent policy for non-tenure-track positions was needed. Arici said that his department could not understand how other departments could have a person in a temporary position for eight or ten years without moving the person to a permanent position. Boutilier said that the 3-year policy would severely impact departments with heavy service loads such as math, humanities, and social sciences, and that students would not graduate if, for example, they could not get the calculus sequence in time. Arici said his question was why the temporary people were not transferred to permanent positions. Boutilier said that the math department had tried to do that, and some policy had prevented it. Arici asked why the policy could not be changed. Boutilier said it should be, but the current Proposal was needed to allow the change to be made.

Ruehr said the Proposal was urgent because this was the third and final year for some persons affected by the policy. Bornhorst said that the policy was initiated in 1991. Heuvers said that the only problem with the Proposal might come from the administration, but they seemed to favor it. Filer said the proposal was a good idea, that it seemed to be a simple solution to a complex problem. Bradley asked whether anybody was against the Proposal.

Leifer said the problem could be obviated if the temporary persons had staff appointment, because there would be no problems with tenure and continuing appointments under AAUP guidelines.

Difficulties arise when an individual is hired as a temporary assistant professor.

Keen asked whether any person would be given tenure de facto if the current policy were suspended under the Proposal. Dobney said that the university attorney had indicated that there would be no problems, because the letters sent to temporary appointees indicated that the appointment was temporary and terminal. Dobney added that if the attorney was wrong, then a number of instructors at the university already had de facto tenure.

Heuvers MOVED to terminate discussion of the motion; Mroz seconded the motion. The motion to terminate PASSED without opposition by voice vote.

The motion to approve Proposal 4-94 PASSED in a show-of-hands vote, 25-0 with 1 abstention.

B. Selection of a Representative to the Memorial Union Board.

Bornhorst asked for volunteers or nominees to serve on the MUB Board. There were none. Roblee asked whether the MUB Board met at the same time as the Senate. Bornhorst said that it did. He added that the MUB Board's constitution required it to have a member of the faculty member as a member of the Board. Bornhorst said he would have to find some volunteer.

XII. Adjournment

Leifer MOVED that the meeting be adjourned. Carstens seconded the motion, which PASSED without opposition. Bornhorst declared the meeting adjourned at 7:10 pm.

Submitted by Robert Keen
Senate Secretary

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