

THE SENATE OF MICHIGAN TECHNOLOGICAL  
UNIVERSITY

Minutes of Meeting 274  
16 April 1997

Synopsis: The Senate

- (1) approved an amended Proposal 30-95, Revision of Proposal 17-94, Policy on Academic Freedom.
- (2) unanimously approved an amended Proposal 10-97, Amendment of the Senate Constitution and Bylaws.
- (3) heard from President Bornhorst that he sent a proposal for a BS in Computer Engineering and one for an Earth Science Education Option to the Curricular Policy Committee.
- (4) heard that the officers had decided to hold a special meeting, following the regular meeting, at 7:35 p.m. on 30 April to hear a report on the budget from Provost Dobney and to discuss the budget.
- (5) approved the resolution from the Research Policy Committee to establish a research advisory board.

1. CALL TO ORDER AND ROLL CALL

President Bornhorst called the Senate Meeting 274 to order at 5:32 p.m. on Wednesday, 16 April 1997, in Room B45 of the Electrical Energy Resources Center.

Secretary Glime called roll. Absent were at-large senator Christa Walck, and representatives from Civil & Env Eng, School of Technology, Army/Air Force ROTC, and IMP. Liaisons in attendance were Geoff Roelant (USG), Evan Schemm (GSC), and Ted Soldan (Staff Council).

2. RECOGNITION OF VISITORS

Guests included Marcia Goodrich (Tech Topics), and Les Leifer (Chemistry).

3. APPROVAL OF AGENDA

Pegg MOVED and McKilligan seconded the motion to approve the agenda. The motion to approve PASSED on voice vote with no dissent. [Appendix A. NOTE: Only official Senate and Library archival copies of the minutes will contain a full complement of appendices.]

4. APPROVAL OF MINUTES FROM MEETINGS 271-273

Williams MOVED and Nesbitt seconded the motion to approve the minutes of meeting 271. The motion PASSED on voice vote with no dissent.

Seely MOVED and Reed seconded the motion to approve the minutes of meeting 272. The motion PASSED on voice vote with no dissent.

Regarding the minutes of Meeting 273, Senator Whitt asked that the wording in the second column on page 6835 be modified to reflect the emphasis that the Senate is THE representative body, and to change the word "reiterated." Paragraph 7 of that column will be amended to read "Whitt stated that the intent is to designate this as THE representative body."

Nesbitt MOVED and Sweany seconded the motion to approve the minutes of Meeting 273 as amended. The motion PASSED on voice vote with no dissent.

5. A. OPEN MOTION TO APPROVE PROPOSAL  
30-95: REVISION OF PROPOSAL 17-94, POLICY ON  
ACADEMIC FREEDOM [Appendix B]

Senator Keen reported that his constituents were concerned about the wording of paragraph 3. Keen MOVED and Whitt seconded the motion to delete the words "consideration of the opinions and circumstances

of others." He indicated that it could eliminate all discussion because it might offend.

Vice President Soldan responded that it doesn't mean that you can't discuss, just consider; it seems much weaker if that wording is removed.

Senator Nordberg agreed that to consider other opinions doesn't mean you must bow to them.

Senator Whitt responded that this very discussion indicates the danger of that kind of vague language that could be interpreted in a variety of different ways and this will in some instances be used in a legal context; we want to be sure that the vague language is not going to work against us or the people we represent.

Nordberg responded that we continue to be vexed by the litigation issue. Although lawyers do ultimately interpret documents, if we go down that road, where do we stop.

Keen stated that President Bornhorst could rule everyone who spoke out of order because they disagree with his opinion.

Whitt stated that this IS a legal document, so we can't ignore that fact.

Soldan stated that he finds himself in this position very often where we are trying to second guess lawyers; having no legal background, he always has difficulty with that. We should do the best we can as a Senate to try to express how WE feel. Lawyers will disagree no matter how careful we are; he feels we should forget all that.

Whitt responded that we can't do that; we are elected to represent and to reflect on policy. This wording could be used against people we represent.

Senator Shonnard stated that this wording is not inconsistent with our roles; we must consider and listen to other opinions.

Senator Pegg stated that we must do the best we can do with the legal language and this wording has legal implications.

Senator Seely stated that the Senate seems to be in agreement with the spirit of the wording and asked if the people who don't like the wording could suggest new wording.

Keen responded that the last part of the sentence really covers the same issue: "and support of high standards of ethical and professional behavior." He added that biologists discuss topics such as evolution that are offensive to some people, but that these topics should still be permitted in the classroom.

The motion to amend PASSED on voice vote with no dissent.

Bornhorst ruled that this constitutes more than an editorial change. Whitt MOVED and Sloan seconded the motion to treat this as an emergency proposal. Bornhorst ruled that the voting units would be academic degree-granting departments. There was no objection. The motion to consider this as an emergency proposal PASSED 16 yes to 4 no by secret ballot.

The motion to approve proposal 30-95 as amended PASSED on voice vote with no dissent.

5. B. OPEN MOTION TO APPROVE PROPOSAL 10-97: AMENDMENT OF SENATE CONSTITUTION AND BYLAWS [Appendix C. See minutes, page 6873, for a copy of this proposal.]

Nordberg MOVED and Pegg seconded the motion to add the library to the list of Academic Departments under II.A. of the Bylaws. (It would therefore be double-listed as both academic and non-academic).

Senator Keen responded that this would have a curious result on page 2/9 (IIB1a). There are now only two members of the library with academic titles and when they are no longer on the library staff, the Senator would represent a unit that had no constituents.

Nordberg stated that the creation of the "other course-offering units" was to acknowledge that the library had an academic role in the institution.

Senator Whitt mentioned that several weeks ago we had discussed the issue and she stated that the library and Department of Physical Education could go either way, giving them votes in both categories.

Vice President Soldan stated that we need to vote on the Constitution first or we could have conflicting Bylaws.

Senator Reed stated that other units (PE, etc.) don't have academic titles and asked how the library differed.

Keen responded that the Committee had spent several hours discussing how to treat the PE department. That department generates more credit hours than many academic departments. Many persons have appointments as staff, so clearly that unit represents both concerns.

Bornhorst added that currently IWR is under academic degree-granting units and other research units. That same Senator represents only the instructors if the issue is an instructional issue.

Secretary Glime questioned how the library could represent two people if they were not one of those two people.

Bornhorst responded that that was another issue, but that if a person were the elected representative that person would represent those two just like IWR.

Senator Nordberg suggested that section IIB1a should be changed to reflect that the academic units are listed in the Bylaws.

Bornhorst responded that it is not necessary to change Article II of the Constitution because it would operate like it does for the IWR and Physical Education.

Keen asked Soldan how many instructors are in IT. Soldan responded that many teach but that their academic appointments are all in other departments.

Senator Kitalong pointed out that she holds the title of Lecturer in Humanities, but that as Senator she represents staff in several units.

Whitt stated that we are trying to impose fairly rigid limits on the representation, but that there are a number of groups that are in between the academic and staff with respect to issues. It should be more flexible.

Bornhorst stated that if we add the library, all the units with mixed roles will be double-listed if applicable.

There was no further discussion. The motion to amend the proposed Bylaws by adding the library to the academic units PASSED on voice vote with dissent.

There was no further discussion. Bornhorst ruled that the amendment was not editorial. Nordberg MOVED and Mroz seconded the motion to treat this as an emergency proposal. The motion to treat the amended Proposal 10-97 as an emergency proposal PASSED by secret ballot, 30 yes to 4 no.

The Constitution vote required the original voting units that were designated when the Constitution went into effect. This included the academic degree-granting, other course-offering, other research units, plus the three designated non-academic units. The designated representatives of those units are Senators Betty Chavis, Ted Soldan, and Karla Kitalong.

Proposal 10-97 to revise the Constitution and Bylaws as amended PASSED on voice vote with no dissent. It will be on the top of the agenda for the next meeting to meet the requirement of a second vote by the Senate; if passed, it will go to the constituents.

6. REPORT FROM SENATE PRESIDENT

President Bornhorst reminded the Senators that at-large ballots are due on 18 April and the Calendar

survey is due 23 April. Several units have completed the survey.

Bornhorst reported that he has received Proposal 13-97, BS in Computer Engineering, which he sent to the Curricular Policy Committee on 7 April. The department has requested that it be at the top of the agenda of the last Senate meeting if it is recommended by the Curricular Policy Committee. [Appendix D]

Bornhorst reported that Proposal 17-97 for an Earth Science Education option in the BS Degree in Geology was forwarded to the Curricular Policy Committee on 14 April. [Appendix E]

Questions regarding the Academic Integrity proposal were sent to the Instructional Policy Committee on 7 April. [Appendix F]

A memo regarding the SS&E budgets has been forwarded to the Budget Subcommittee of the Finance Committee. The memo will come to the Senators by E-mail tomorrow. [Appendix G]

On 10 April President Bornhorst had lunch with President Tompkins and devoted 45 minutes of discussion to the topic of the 1% realignment.

The next Senate meeting will be held 30 April. The officers have discussed the agenda and decided that rather than have an additional meeting, the 30 April meeting will be held 5:30 to 7:30 p.m., then be followed by a special budget meeting to begin at 7:35. Provost Dobney will present the budget at the special meeting, followed by discussion. Since no proposals are anticipated, discussion can continue as long as needed, even if there is no longer a quorum.

Senator Suryanarayana asked what was the President's thinking on the 1% realignment.

Bornhorst responded that the President expressed that the hoped-for behavior had not occurred. He felt that some sort of re-allocation was necessary, but there was no conclusion as to how that should be handled.

Suryanarayana asked what behavioral change had been expected. Bornhorst responded that the President had been expecting some hard personnel decisions.

Senator Leifer suggested that they should re-allocate some of the administrators.

#### 7. COMMITTEE BUSINESS/REPORTS

Senator Reed, chair of the Research Policy Committee, reported on the resolution (attached to agenda 274) from the Research Policy Committee. [Appendix H] The committee met with Sung Lee in development of the resolution. MTU now has over \$20 million per year in research activity, which is nearly as much as is generated by tuition. The funding has tripled in the last 10 years. Policies and procedures are lagging behind. Therefore, there are lots of emergency decisions. This group could provide a forum for discussion.

In addition to setting up an advisory committee, the resolution makes six requests, based on the original recommendations of the task force and the discussions of that proposal in the Senate. The resolution eliminates the Foundation and instead recommends the establishment of an Advisory Board consisting of faculty who do research and external advisors.

Senator Shonnard asked what would be the assurance of any action if the Senate were to forward the resolution.

Bornhorst responded that there would be none.

Mroz MOVED and Seely seconded the motion to forward the resolution to the Administration. Mroz stated that passing the resolution doesn't preclude doing something more formal later.

Senator Leifer raised concern that the proposal from the task force had been defeated and this resolution seems to be an attempt to circumvent the earlier decision.

Bornhorst responded that the major objection to the proposal had been the creation of a foundation; there is no foundation in the resolution. No one complained about any of the ideas that have been retained in the resolution.

Secretary Glime added that the resolution comes from a different committee, the Senate Research Policy Committee.

Senator Whitt asked if there is any significance in calling it a Board instead of a Committee. Reed responded that it would function in a role similar to that of the departmental advisory boards.

Senator Suryanarayana asked if this resolution resulted from discontent to some research units.

Bornhorst responded that President Tompkins formed the committee because he had received a number of complaints. The task force worked two years on the proposal.

Suryanarayana stated that the committee had identified weaknesses in the existing structure.

Discussion ended. Bornhorst ruled that the voting units were academic and other research units. There were no objections. The motion PASSED on voice vote with dissent.

#### 8. NEW BUSINESS

President Bornhorst introduced Proposal 14-97: Policy on Correcting Student Grades and Retention of Student Work; Proposal 15-97: Recommendation for a Marketing Survey on the Academic Calendar; and Proposal 16-97: Minor Degrees. [Appendices I-K]

#### 9. OLD BUSINESS

A. Proposal 4-97: Recommendation to Change Administrative Procedures. [See minutes, page 6782, for a copy of this proposal.]

Lutzke MOVED and Richter seconded the motion to accept Proposal 4-97.

Senator Seely stated that removal of the "at will" wording [on job applications] will not change the philosophy of the institution. It could still go in the letter of tender. We need to change the statement of philosophy, which only the Board can change. We need to treat all employees as "just cause" employees.

Senator Lutzke responded that the proposal has two points; the second is to establish a committee to work on a policy and guarantee in writing the right to a fair hearing. Apparently the "at will" wording was added by the attorney. We are not asking the University to give up any rights or retain incompetent people. He said this is a moral issue and he doesn't care what is being done at other universities.

Senator Mroz asked if the language is in the letter employees sign.

Lutzke responded that the language was new in 1987; prospective employees must relinquish their rights before they can be employed.

Senator Dietlin, who came from employment where anyone could be fired at will, stated that she found it hard to accept the concept that people were entitled to a job for life.

Lutzke responded that there is no guarantee of a job for life; all the professional staff wanted was simple fair treatment.

Senator Nordberg agreed.

Senator Richter agreed that under the proposed change people could still be dismissed for just cause.

Senator Leifer stated that "at will" is offensive; it could mean that someone could be fired for not wearing a tie; we should ask the Senate President to take this

proposal to the Board of Control and ask the Board to expunge the "at will" phrase.

Seely restated that he is not disagreeing with what Lutzke is saying, but he reiterated that passing this would not accomplish the goal. It will require direction from the Board to change the philosophy.

Senator Whitt agreed that this proposal is not adequate, but that its inadequacy is not an argument not to pass it. If it doesn't work, then the Senate can consider something more direct.

Vice President Soldan reported that the Staff Council had discussed the Proposal and had suggested modifying the first sentence to read "It is recommended that the MTU Administration adopt the philosophy of just cause and provide due process in instances of job security and educational pursuits and direct the Human Resources Department to delete the words, ..."

Senator Vichich stated that although some individuals on campus do subscribe to "at will," the Board of Control did not make that change.

Seely countered that the legal default would be "at will" if nothing is specified.

Senator Keen stated that he was uncomfortable with the proposal. He agreed that the language of "at will" is atrocious, but that this would be like a stray pot shot at the relationship between the Board and the lawyer. It is like the saying that if you want to shoot the king, don't miss because you probably won't get a second chance.

Lutzke agreed that the language is an abomination and he is willing to do whatever is necessary to accomplish the goal.

Leifer stated that at the last Board of Control meeting, the Board lawyer Vercruysse stated that no Board can guarantee for future Boards; he was called on it because tenure is guaranteed, so the lawyer lied. Leifer would fire a lawyer who lied. He re-emphasized that President Bornhorst should go to the Board and tell them that the wording is offensive. If the lawyer recommends retaining it, then don't follow his advice.

Senator Santeford asked who in the upper Administration favored keeping the wording as it is.

Seely stated that his sense is that no one does, but he raised concern that if the language is changed without a change in philosophy by the Board, then people will believe that the philosophy is guaranteed. The present administration seems to operate as if the language is already "just cause," but that might not be the case in the future.

Senator Kitalong agreed that if we take out the language and do not change the philosophy, then people will be misled.

Senator Vichich stated that until 1987 the employment had been considered as just cause with due process.

Soldan suggested we should vote on getting rid of the "at will" wording, then consider the philosophy change.

Senator Green stated that the states are divided between "at will" states and "just cause" states; Michigan is an "at will" state, so we might not be able to change anything.

Vichich added that some people think there is a property right to the employment as well. We can talk about many issues, but the issue here is to get rid of this wording.

Senator Whitt asked what happens next; she assumed it would not need to go to the Board.

Bornhorst responded that it would go to the Administration as a recommendation.

Senator Suryanarayana stated that there is already a large segment of the University that can't be dismissed "at will." That reflects the philosophy of the university and the wording should be expunged to provide this protection for everyone.

Secretary Glime responded to Green's statement that Michigan is an "at will" state by saying that she finds THAT to be one of the most compelling reasons to tell them that we don't think that's right.

Seely stated that the wording Soldan had suggested seemed to deal with the philosophy issue and requested that it be read again.

Vichich MOVED and Seely seconded the motion to modify the first sentence as read by Soldan from Staff Council, "It is recommended that the MTU Administration adopt the philosophy of just cause and provide due process in instances of job security and educational pursuits and direct the Human Resources Department to delete the words, ..."

Mroz commented that the big increase in research funding reported by Reed earlier in the meeting did not come just from faculty; staff outnumber faculty almost 2:1 and contribute in many ways that facilitate research productivity.

Pegg asked for clarification of "educational pursuits." No one could explain.

Dietlin asked if adopting this language meant we were inferring that we do not currently have a philosophy of due process. Bornhorst agreed that that is the implication. Soldan added that we just want a guarantee by getting rid of the wording.

Consensus favored dropping the words "and educational pursuits." President Bornhorst ruled to strike the wording "and educational pursuits" from the amendment. There was no objection. There was no further discussion.

Bornhorst ruled that the full Senate would vote on this issue; there was no objection.

The amendment to add the wording "adopt the philosophy of just cause and provide due process in instances of job security and" PASSED on voice vote with no dissent.

Bornhorst ruled that the change was not editorial.

Reed stated that he thinks the change is editorial and that the word "policy" needs to be changed to "procedures" so that the second sentence would read, "It is further recommended... to formulate appropriate procedures to guarantee in writing..." Bornhorst ruled to accept this editorial change.

Whitt asked how the select committee would be selected. Lutzke responded that the assumption was the Senate would select it.

Bornhorst ruled that the words "with a select committee" be changed to read, "with an ad hoc Senate committee," as an editorial change. There were no objections.

Green asked if those who signed the application with the "at will" statement during the last 10 years were stuck with it. Bornhorst responded that if the University and Board of Control adopt the philosophy, it would change it for everybody.

Chavis asked if that would mean all those folks would have to sign another contract.

Dietlin stated that if people have signed a legal document on conditions of work, how does a change in philosophy change what they have signed?

Bornhorst responded that if the Board of Control adopts the philosophy, it would change the way the University operates in all cases.

Bornhorst ruled that the changes were more than editorial; there was no objection so Proposal 4-97, as amended, will be near the top of the next agenda.

Vichich requested that a revised copy be included in the packet for the next meeting. Bornhorst agreed.

B. Proposal 7-97: Recommendation to Change Section 6.3.1 of the Faculty Handbook. [See minutes, page 6844, for a copy of this proposal.]

Pegg MOVED and Shonnard seconded the motion to approve Proposal 7-97.

President Bornhorst asked how Proposal 7-97 and Proposal 12-97 on the change of eligibility conditions of Section 6.3.1 differed.

Senator Leifer stated that the intent of 12-97 was to remove the requirement of 2 years employment or more than 35 years of age.

Senator Reed stated that he had the same concern as Bornhorst.

Senator Keen responded that Proposal 7-97 deals with the requirement that a person must have been hired before 1 January 1996 in order to receive retiree health benefits.

Senator Sweany stated that this page of the handbook has two policies on it and one does say that only those people hired before 1 January 1996 will be eligible for retiree health benefits and the other one says only hirees who fit one of the three categories (listed in Proposal 12-97 background) would receive the TIAA-CREF benefits during the first two years. These benefits were expunged without our knowledge.

Senator Williams stated that it seems unclear so he suggested that the Senate complete action on it at the next meeting.

Bornhorst agreed, so Proposal 7-97 remains as an open motion to be near the top of the next agenda. There were no objections.

C. Proposal 11-97: Recommendation on retirement Health Benefit Fund. [See minutes, page 6889, for a copy of this proposal.]

Vice President Soldan questioned the use of \$2.9 million to include MPSERS equalization.

Senator Leifer stated that moneys for TIAA-CREF and MPSERS come from the same pot.

Soldan countered that he had understood that departments had agreed not to fill positions created by retirements for six months in order to cover MPSERS retirement costs.

Senator Mroz reported that MPSERS and TIAA-CREF have separate funds. As of 31 December 1996, MPSERS has a balance of \$532,050 and the TIAA-CREF retirement plan has \$2.69 million.

Richter MOVED and Mroz seconded the motion to adjourn.

The meeting adjourned at 7:30 p.m. with open motions on amended Proposal 4-97 and Proposal 7-97.

Respectfully Submitted by Janice M. Glime  
Secretary of the Senate