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An Analysis of Montana
University System Auxiliary
and Plant Funds

by

Richard W. Gilbert

B.A. Montana State University 1979

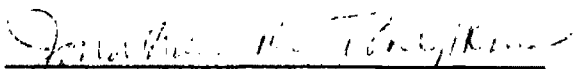
Presented in partial fulfillment of the requirements for the degree of:

Masters of Public Administration


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1984

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Chairman Board of Examiners


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CHAPTER I

INTRODUCTION

This professional paper grew out of a report assigned to the author while an intern with the Montana Legislative Fiscal Analyst's (LFA) office. The project involved an examination and review of university auxiliary and plant funds. This report was written for presentation to the Legislative Finance Committee because the director of the LFA felt it involved issues that should be brought to the attention of the legislature. The first report was presented to the Committee in October 1982. Subsequently, a follow-up report was requested by the Committee. The second report was presented to the Committee in November 1983. This second report comprises the bulk of the present professional paper, modified to take the form required of a professional paper.

The Legislative Fiscal Analyst's office was established as a result of the Legislative Finance Act of 1975. State law assigns the legislature the responsibility for appropriating public funds. The legislature must also provide for the fiscal analysis of state government in financial matters of the state that are relevant to issues of policy and questions of statewide importance (5-12-101 (2) MCA 1975). The Legislative Fiscal Analyst's office assists the legislature in meeting its fiscal responsibilities.

The LFA office serves the Legislative Finance Committee on a continuing basis. The Legislative Finance Committee is a bipartisan, bicameral, standing committee of the Montana Legislature. It is bicameral in that it consists of six members of the senate and six members of the house of representatives. It is bipartisan in that no more than three members from each house can be members of the same political party. The goals of the committee are to insure the integrity of the legislature's fiscal directions, to provide fiscal responsibility in state finances, and to encourage legislative awareness about the committee action in regard to budget amendments and staff reports.

Emergence of the Auxiliary and Plant Fund Issue

The auxiliary and plant fund issue was first identified in a staff report to the Legislative Finance Committee from the Legislative Fiscal Analyst's office in 1978. That report documented approximately \$3.5 million held in auxiliary and plant fund balances at the six state universities as of June 30, 1978.

This initial report focused on the exceptionally large balances at a time when the universities were approaching the legislature with allegations of funding deficiencies. During this period, the universities were projecting declining student enrollments which could result in funding deficiencies. The 1978 report documented large balances in the auxiliary and plant accounts at each of the six university units which cast doubt on the universities alleged financial problems. The report recommended that the legislature review these fund balances

and determine the extent to which these fiscal resources should be taken into account in allocating state general fund dollars to the university system.

Auxiliary enterprises are revenue generating facilities such as food services, residence halls, and bookstores¹. Plant funds consist of those financial resources received by the Montana University System for capital outlay purposes or to retire long-term debts associated with construction projects. (See Appendix A)

During my internship period I completed an extensive analysis and review of auxiliary enterprise and plant funds including the fund balances and the disposition of auxiliary and plant funds. The results of this analysis and review were summarized in a report to the Legislative Finance Committee in October 1982. That report identified the following issues with which the legislature should be concerned:

1. The existence of approximately \$5.0 million of unrestricted funds held in auxiliary and plant fund balances as of June 30, 1981 at the six colleges and universities;
2. A projected balance of more than \$9.0 million in auxiliary and plant accounts by fiscal year-end 1984;
3. The restrictions placed on excess revenues in the 1954 bond indenture at Montana State University;
4. The budgetary implications of the commitment of plant funds for maintenance on academic buildings; and
5. The precarious financial situation at Western Montana College.

¹The UM Bookstore is financially independent from the university.

The issues presented in the October 1982 report resulted in several actions by the Legislative Finance Committee. The Committee requested from the six colleges and universities information regarding projected revenues pledged to the bond indentures, auxiliary and plant fund balances, bond principal and interest requirements, and a list of all projects financed with unrestricted funds detailing the nature of the project, the amount to be committed to each project, and the expected completion date for each. The Committee also requested a statement from the Commissioner of Higher Education providing information concerning the steps to be taken to prevent Western Montana College's bond reserves from falling below the level required by the 1966 Bond Indenture.

As a result of these requests for information by the Legislative Finance Committee and the need to update the data in the 1982 report, a follow-up report was drafted. The November 1983 report provided: (1) an update of balances held in auxiliary and plant fund accounts as of June 30, 1982 and projections of future levels of auxiliary and plant balances for fiscal 1983, 1984, and 1985; (2) a follow-up to issues presented to the Legislative Finance Committee in the October 1982 report; and (3) a discussion of the authority of the legislature to appropriate auxiliary and plant funds.

Methodology

The information and data necessary for addressing the issues raised in this paper were acquired through the resources available to

the Legislative Fiscal Analyst office. The following resources were utilized in gathering relevant information and data:

- (1) The Montana Financial Report (fiscal years 1981 and 1982). This report is published by the State of Montana, Department of Administration in accordance with Section 17-2-110 MCA. The financial statements in the report include all funds, account groups, boards, commissions, agencies, and colleges and universities that are controlled by the state.
- (2) The Statewide Budgeting and Accounting System (SBAS). The Statewide Budgeting and Accounting System is a centrally maintained, computer-driven, full spectrum double-entry bookkeeping and financial reporting system maintained and operated by the State of Montana, Department of Administration for the use of state government agencies. The fundamental principles upon which the system is based subscribe generally to those recommended by the National Conference on Governmental Accounting.
- (3) Independent Bond Audits. The six colleges and universities in Montana are required under the provisions of various indentures and resolutions authorizing their bonds to have prepared independent audits of the financial status of the bond indentures. Due to this requirement an independent bond audit is prepared annually detailing the revenues and expenditures, account activity and investments related to bonds issued by each university unit.

(4) Legislative Audits. The office of the Legislative Auditor prepares program and compliance audits of each university unit. These audits contain revenue and expenditure information relating to bonds issued by each university unit. These audits are available on a biennial basis.

(5) University Financial Reports. Periodically the universities publish financial reports detailing the fiscal condition of each university. The degree of detail and usefulness varies with each university report.

(6) Other Sources. Other sources of information utilized in the report include the Montana Code Annotated, minutes from past Legislative Finance Committee meetings, interviews and correspondence with university administrators and bond auditors, and a review of selected Supreme Court cases.

CHAPTER II

BACKGROUND INFORMATION ON THE UNIVERSITY BONDING STRUCTURE

The Montana State Legislature granted the Board of Regents of the university system statutory authority to issue revenue bonds for the construction of university buildings in MCA, 20-25-302 (1971) and 20-25-401 (1971). The regents are authorized to pledge, for the payment of principal and interest on such bonds, net income derived from auxiliary facilities, student building fees, land grant revenue, and admission charges for the use of the auxiliary facilities. Auxiliary facilities derive income from sales and services provided to students and the public. (See Appendix C for history of auxiliary facilities).

Chart 1 provides a simplified graphic illustration of the basic bond financing structure used by each unit of the Montana University System. Although each unit varies slightly in the organization of its bond accounts, Chart 1 provides a general pattern of operations common to each bond issued by the six campuses.

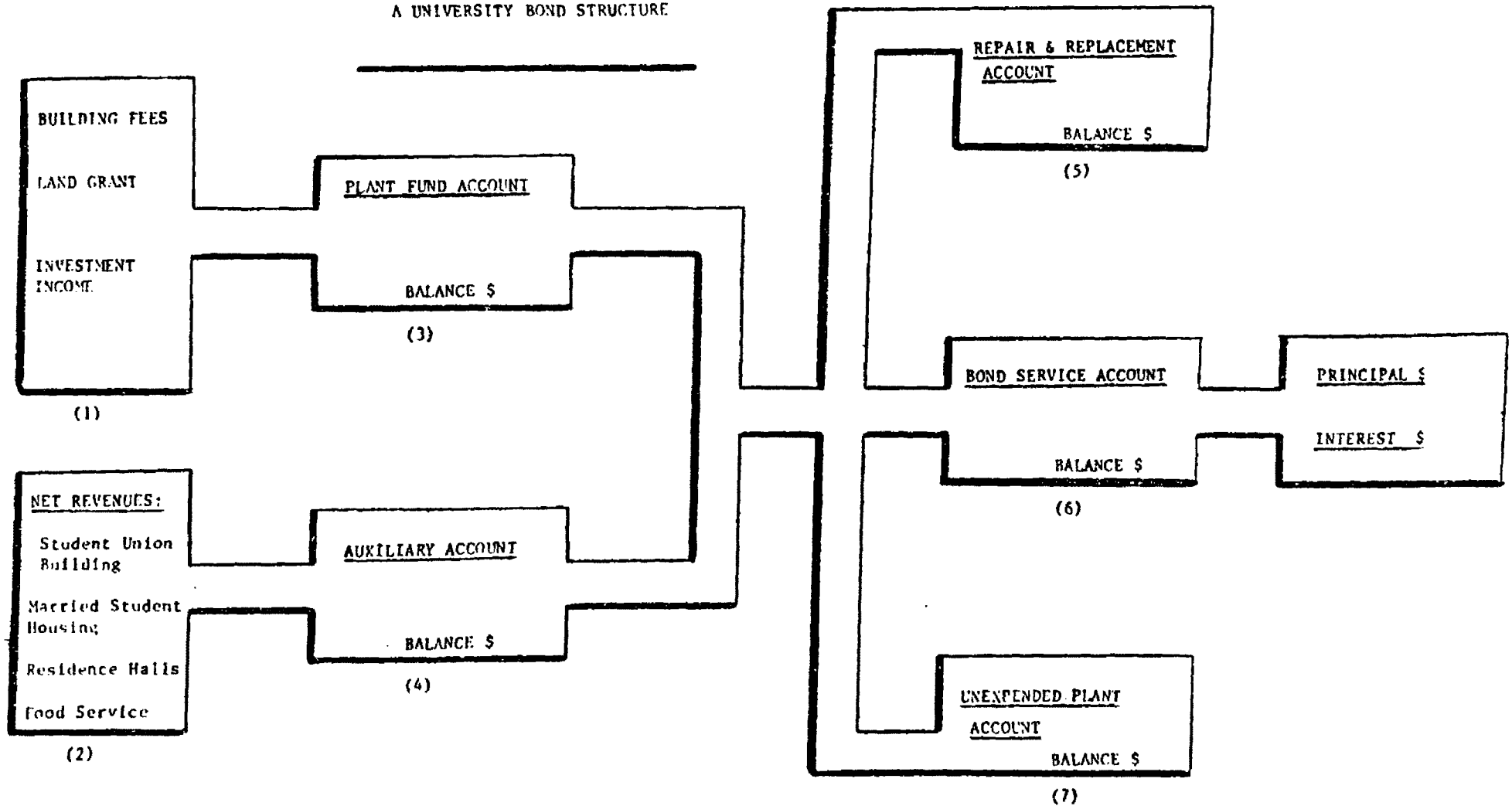
Boxes (1) and (2) represent the revenue sources which are normally pledged in the bond indenture. The revenues collected from building fees, land grants, and investment income, flow into a plant fund account (box 3). Similarly, the net revenues from auxiliary enterprises flow into an auxiliary account (box 4).

In the plant fund and auxiliary accounts, a portion of revenue remains in balance, while the remainders combine to provide the main source of revenue for bond service or debt retirement. The bond accounts are depicted in Chart 1 as the repair and replacement account (box 5), the bond service account (box 6), and the unexpended plant account (box 7).

According to bond agreements, each university is required to maintain and preserve the bond-funded building in good condition. To meet this requirement, the universities have set up a repair and replacement account (box 5). The repair and replacement account receives money from plant fund and auxiliary accounts and devotes it to maintaining the physical condition of the buildings or projects.

The plant fund and auxiliary accounts also distribute a portion of the revenue to the bond service account (box 6). Within each bond indenture exists one or more series, with each series representing the construction accounts, which are depicted in Chart 1 as the repair and replacement account (box 5), the bond service account (box 6), and the unexpended plant account (box 7). Some of the universities have set up an unexpended plant fund to finance various projects such as the acquisition of land and equipment or the improvement of buildings.

CHART 1
BASIC FLOW CHART OF
A UNIVERSITY BOND STRUCTURE



Special Indenture Requirements

The bond indentures of each university unit are similar in terms of the conditions and requirements to be met by the universities and the bond-holders. Montana State University's 1954 housing and student union indenture is unique from other indentures in that it does not allow funds in excess of the reserve requirement to be used for purposes other than replacing pledged facilities or retiring bonds. For Montana State University this places a restriction on approximately \$3.5 million remaining in balance from pledged revenues, over the minimum required reserve, as of June 30, 1982. The restricted excess resources of Montana State University's 1954 indenture apply to all twelve bond series currently issued. Further series issued under the 1954 indenture would be subject to the same restrictions as the existing bond series.

The University of Montana's 1956 housing and student union indenture also places very broad restrictions on excess revenues generated under the indenture.¹ The indenture states:

"all revenues and earnings . . . in excess of the minimum amounts required [for reserve] [are] to be retained by the trustee subject to the demand of the President of the University of Montana for any lawful purpose of the University of Montana related to construction, equipment, enlargement, improvement, replacement, repair, operation, or maintenance of income facilities of the University of Montana."

¹In this report the excess revenues generated under the University of Montana's 1956 housing and student union indenture is considered as "unrestricted."

All other indentures are written to allow for the expenditure of excess pledged revenues for any other lawful purpose.

General Obligation Bonds

In recent years building construction projects for the university system have been funded by general obligation bonds issued by the State. The general obligation bonds are appealing to the universities because they are backed by the State of Montana and provide a slightly lower interest rate than bonds issued by each unit. Under the provisions of Section 20-25-432, MCA, the Board of Examiners is authorized to issue and to sell long-range building program bonds on behalf of the universities. The universities operate under an agreement to pay principal and interest to the State Treasurer. The agreement specifically states that the universities must maintain debt service payment and reserve requirements, and the revenue sources from which these obligations will be met. Payments are to be made from the surplus revenues from existing university revenue bonds and all fees and income lawfully available to the regents.

CHAPTER III

UPDATE ON INFORMATION REGARDING AUXILIARY AND PLANT FUNDS

This chapter provides fiscal 1982 data for university auxiliary and plant funds, including bonded indebtedness, fund balances, commitments of fund balances and revenue projections. This information updates the information provided in the October 1982 report to the Legislative Finance Committee.

Bonded Indebtedness

As of June 30, 1982 the Montana University System had \$51,098,000 of bond indebtedness. Table 1 shows the amount of bond indebtedness for each unit categorized by the type of facility constructed under the bond indenture. Approximately one-half of the total is contained within Montana State University's and the University of Montana's housing and student union bond indentures.

The total amount of bond indebtedness is comprised of two different kinds of bonds. The campuses had \$41,058,000 in outstanding revenue bonds in fiscal 1982, while \$10,040,000 represents outstanding general obligation bonds issued by the state on behalf of MSU, EMC and MCMST.

Actual and Projected Balances

The following sections provide an update of fiscal year-end 1982

Table 1
Montana University System
Bonded Indebtedness at 6/30/82

<u>Bond Indenture</u>	<u>MSU</u>	<u>UM</u>	<u>EMC</u>	<u>MCMST</u>	<u>NMC</u>	<u>WMC</u>
Housing/Student Union	\$11,818,000	\$11,636,000	\$3,372,000	\$1,121,000	\$2,870,000	\$ 896,000
	3,938,000 ¹	-0-	-0-	-0-	-0-	-0-
Physical Education	1,545,000	3,270,000	338,000	2,140,000 ¹	-0-	-0-
	2,462,000 ¹	-0-	1,500,000 ¹	-0-	-0-	-0-
Pool	-0-	72,000	-0-	-0-	-0-	-0-
Field House	-0-	32,000	-0-	-0-	-0-	-0-
Classroom	<u>3,675,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>413,000</u>
Total	<u>\$23,438,000</u>	<u>\$15,010,000</u>	<u>\$5,210,000</u>	<u>\$3,261,000</u>	<u>\$2,870,000</u>	<u>\$1,309,000</u>
Total All Units	<u>\$51,098,000</u>					

¹Long-Range Building Program - 1980 Series General Obligation Bonds

unrestricted bond fund balances, commitments, unrestricted uncommitted balances, and revenue projections through fiscal year 1985.

The following definitions will be used throughout this report:

1. Unrestricted bond fund balances are auxiliary and plant fund balances after allowing for the reserve requirement called for by each bond indenture.

2. Commitments are expenditures of plant funds for a variety of projects approved by the universities, the board of regents, or the legislature.

3. Unrestricted uncommitted balances are fund balances not restricted in how they can be spent by the bond indentures or encumbered by commitments for projects begun but not completed prior to the end of the fiscal year.

4. Net bond fund balances are auxiliary and/or plant fund balances after operating expenses have been subtracted.

Unrestricted Bond Fund Balances

Net bond fund balances for each university unit are categorized according to the type of bond indenture as shown in Table 2. The net fund balance figures include auxiliary enterprises, such as student unions and housing facilities, and physical recreation, swimming pool, fieldhouse, and classroom facilities. The net fund balances, reduced by the amount of reserves required for each bond indenture, leaves an "unrestricted balance" for each indenture. These balances are referred to as unrestricted because

they represent fiscal resources not restricted in terms of how money can be spent by the bond indentures. Montana State University's 1954 housing indenture is an exception and is not included as an unrestricted balance.

These unrestricted balances not only represent cash, they include assets that are in the form of investments, receivables, and other assets. Other assets consist of inventory and supplies related to the various auxiliary units. The six-unit total for unrestricted balances in fiscal 1981 is in excess of \$4.8 million. Included in this total is \$1.1 million in other assets. The remaining \$3.7 million is in the form of cash, investments, or receivables.

Table 2
Table of Unrestricted Bond Fund Balances
June 30, 1982

Indenture	MSU	UM	EMC	MCMST	NMC	WMC
<u>Housing and Student Union</u>						
Net Fund Balance	\$6,608,957	\$4,851,707	\$1,333,186	\$ 403,035	\$870,531	\$109,768
Reserve	2,656,716 ¹	3,795,158	542,031	116,778	595,034	80,305
Unrestricted Balance	\$3,952,241	\$1,056,549	\$ 791,155	\$ 286,257	\$275,497	\$ 29,463
<u>Physical Recreation</u>						
Net Fund Balance	\$ 699,646	\$1,598,185	\$ 355,306	\$1,272,551	\$ 5,815	
Reserve	233,567	556,975	295,854	159,255	-0-	
Unrestricted Balance	\$ 466,079	\$1,041,210	\$ 59,452	\$1,113,296	\$ 5,815	
<u>Pool</u>						
Net Fund Balance		\$ 36,814				
Reserve		21,060				
Unrestricted Balance		\$ 15,754				
<u>Field House</u>						
Net Fund Balance	\$ 152,448	\$ 51,559				
Reserve	-0-	56,000				
Unrestricted Balance	\$ 152,448	\$ (4,441)				
<u>Classroom</u>						
Net Fund Balance	\$1,156,518					\$137,921
Reserve	640,763					42,052
Unrestricted Balance	\$ 515,755					\$ 95,869
<u>Total</u>						
Net Fund Balance	\$8,617,569	\$6,538,265	\$1,688,492	\$1,675,586	\$876,346	\$247,689
Reserve	3,531,046	4,429,193	837,885	276,033	595,034	122,357
G.O. Reserve	702,900		147,785	161,532		
Restricted	3,952,241	-0-	-0-	-0-	-0-	-0-
Unrestricted Balance	\$ 431,382	\$2,109,072	\$ 702,822	\$1,238,021	\$281,312	\$125,332
	Total Net Fund Balance			\$19,643,947		
	Less: Total Reserve		10,803,765			
	Total Restricted Balance		3,952,241	(14,756,006)		
	Total Unrestricted Balance			\$ 4,887,941		
				=====		

¹MSU's 1954 housing and student union indenture does not allow funds above the reserve requirement to be used for purposes other than replacing facilities or retiring bonds.

Commitments of Unrestricted Fund Balances by the Universities

Remodeling, repair, and maintenance projects represent commitments against the unrestricted funds that result from revenue bond financing. The difference between the amount authorized for a particular project and the amount spent for the completion at any time represents the remaining commitment. This remaining commitment is regarded as an encumbrance against unrestricted fund balances and is deducted from each unit's unrestricted fund balance.

Table 3 shows \$1,070,304 of commitments made against unrestricted fund balances at fiscal year-end 1982. These commitments represent a variety of projects initiated and approved by the university presidents and regents. After subtracting the commitments, the uncommitted unrestricted balance in fiscal 1982 totaled \$3,817,637 for the six units.

Commitment of Unrestricted Fund Balances by the Legislature

The 1983 Legislature authorized to the university system \$352,800 in plant or auxiliary funds for the 1985 biennium. These funds were allocated for the following projects by the Long-Range Building Committee:

P.E. Bldg. Roof Repair EMC	\$ 55,000
Men's Gym Roof Repair UM	51,000
Electrical Distribution System UM	<u>246,880</u>
Total	<u>\$352,880</u> =====

Table 3
Commitments Against Unrestricted Fund Balances
June 30, 1982

	<u>MSU</u>	<u>UM</u>	<u>EMC</u>	<u>MCMST</u>	<u>NMC</u>	<u>WMC</u>
Unrestricted Fund Balances	\$ 431,382	\$2,109,072	\$ 702,822	\$1,238,021	\$ 281,312	\$ 125,332
Commitments	<u>107,177</u>	<u>360,883</u>	<u>-0-</u>	<u>602,244</u>	<u>-0-</u>	<u>-0-</u>
Uncommitted Unrestricted Fund Balance	\$ 324,205	\$1,748,189	\$ 702,822	\$ 635,777	\$ 281,312	\$ 125,332
	=====	=====	=====	=====	=====	=====
Six Unit Total Uncommitted Unrestricted Balance				\$3,817,637		
				=====		

These appropriations represent commitments from existing accounts of unrestricted fund balances in fiscal 1984.

Projections for Unrestricted Revenues

Earning requirements required under each bond indenture normally exceed the amount due in principal and interest payments. Funds remaining after meeting the principal and interest payment and the reserve requirement are unrestricted, except for Montana State University's 1954 housing indenture, and the University of Montana's 1956 housing indenture which limit funds to any lawful purpose related to the construction or maintenance of income facilities at the University of Montana. In keeping with the purpose of this report, it is necessary to anticipate the amount of unrestricted revenues to give the legislature an indication of potential unrestricted revenues available to the university system.

Table 4 shows unrestricted new revenues for fiscal 1982. Auxiliary costs and bond principal and interest payments have been subtracted from total revenues to get unrestricted net revenues. The six-unit total of unrestricted net revenues for fiscal 1982 was \$2,931,995.

Northern Montana College's revenues in fiscal 1982 were not sufficient to meet operating expenses and pay principal and interest

Table 4
Unrestricted Bond Account Revenue for Fiscal 1982

<u>Indenture</u>	<u>MSU</u>	<u>UM</u>	<u>EMC</u>	<u>MCMST</u>	<u>NMC</u>	<u>WMC</u>	<u>Total</u>
Housing Union	\$	\$ 400,137	\$230,577	\$ 52,544	\$(48,461) ²	\$ 4,474	\$ 639,271
Physical Recreation	237,697	782,543	139,031	585,146			1,744,417
Swimming Pool		4,496 ¹					4,496
Fieldhouse	135,483	(71,795) ¹					63,688
Classroom	<u>430,249</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>49,874</u>	<u>480,123</u>
Totals	<u>\$803,429</u> =====	<u>\$1,115,381</u> =====	<u>\$369,608</u> =====	<u>\$637,690</u> =====	<u>\$(48,461)</u> =====	<u>\$ 54,348</u> =====	<u>\$2,931,995</u> =====

¹These figures do not include the UM student activity fee totaling \$318,242 in fiscal 1982 which is pledged to the pool and fieldhouse. The revenues actually were spent by ASUM. The fieldhouse shows a negative revenue figure because the bond is nearing retirement and the balances are being drawn down.

²The negative revenue figure for Northern Montana College is discussed later in this report.

on their housing and dining facility bond due to an increase in expenditures. Northern relied upon existing balances to meet its payments. In fiscal 1982 Northern spent an additional \$100,000 on remodeling and repairs to Donaldson Hall, McKenzie Hall, Morgan Hall, and Married Student Housing. An independent audit of Northern's bonds indicated Northern did not violate its earnings or reserve requirements by committing funds to these projects.

Table 5 provides projections for fiscal years 1983, 1984, and 1985 based on the operations of fiscal 1982. Fiscal 1983 was included because data for this report was prepared prior to the end of the 1983 fiscal year. The figures shown on the table are net revenue estimates less principal and interest payments each year.

Projected revenues for combined fiscal years 1983, 1984, and 1985 total approximately \$8,290,000. The projections exclude the actual amount of principal and interest due under each bond indenture in each of the projected fiscal years. The assumption made here is that the relationship between revenues and costs will remain relatively constant through fiscal 1985, thus the net income from auxiliaries will remain constant.

The total projected revenues do not exclude any commitments to major repair or remodeling projects such as the ones listed in the previous section. In fiscal 1982, \$648,648 was spent by the university system on special projects. In fiscal 1981, \$1,058,849 was spent by the university system on special projects. By taking a two-year

Table 5
Projected Revenues for Fiscal 1983, 1984, 1985 - Based on Fiscal 1982 Operations

<u>Bond Indenture</u>		<u>MSU</u>	<u>UM</u>	<u>EMC</u>	<u>MCMST</u>	<u>NMC</u>	<u>WMC</u>
Housing and Student Union							
	1983	\$ -0-	\$ 391,000	\$231,000	\$ 53,000	\$(51,000)	\$ 6,000
	1984	-0-	364,000	234,000	53,000	(51,000)	7,000
	1985	-0-	377,000	233,000	53,000	(49,000)	(1,000)
Physical Recreation							
	1983	238,000	588,000	137,000	584,000		
	1984	240,000	451,000	137,000	584,000		
	1985	239,000	528,000	138,000	585,000		
Swimming Pool							
	1983		5,000				
	1984		6,000				
	1985		7,000				
FieldHouse							
	1983	136,000	(43,000)				
	1984	136,000	(12,000)				
	1985	136,000	(12,000)				
Classroom							
	1983	464,000					\$ 51,000
	1984	482,000					50,000
	1985	<u>534,000</u>					<u>51,000</u>
Total		\$2,605,000	\$2,650,000	\$1,110,000	\$1,912,000	\$(151,000)	\$164,000
Cumulative Unrestricted Net Revenue for Fiscal 1983, 1984, 1985							\$8,290,000
Cumulative Commitments for Fiscal 1983, 1984, 1985 ¹							<u>\$2,550,000</u>
Total Projected Unrestricted Uncommitted Revenue							<u>\$5,740,000</u>

¹Based on fiscal 1982 actual expenditures.

average, the university expenditures on special projects would be approximately \$850,000 annually. If this figure remains constant, it would reduce projected unrestricted revenues by approximately \$2,550,000, leaving a remainder of \$5,740,000 at the end of fiscal 1985.

Update Summary

Table 6 provides a financial overview of figures explained in this updated report. On June 30, 1982, the universities had a total bond fund balance of \$19.6 million. Of that balance \$15.8 million was either restricted by requirements in bond indentures or committed by the university for various maintenance and remodeling projects. The net result was a total unrestricted and uncommitted balance at June 30, 1982 of \$3.8 million. The projected unrestricted revenues through 1984 is \$8.3 million. Together, these combine to equal total discretionary resources of \$12.1 million as of June 30, 1985. This figure does not include future commitment of funds made by the universities. Since commitments are discretionary expenditures made by the universities, they are difficult to project. But, if an average of commitments made in fiscal 1981 and 1982 is used as a basis for fiscal 1983, 1984, and 1985, they can be expected to total approximately \$2.5 million by June 30, 1985. Subtracting the \$2.5 million in projected commitments and the \$2.4 million in general obligation bond payments from the total of \$12.1 million, produces a total of \$7.2

million in projected unrestricted and uncommitted fiscal resources available as of June 30, 1985.

Table 6
Calculation of Unrestricted Uncommitted Fiscal Resources
Fiscal Year-end 1985

		<u>Millions</u>
Total University Bond Fund Balance at 6/30/82		\$19.6
Restricted and Committed		<u>15.8</u>
Total Unrestricted Uncommitted Balance 6/30/82		\$ 3.8
Projected Unrestricted Uncommitted Revenues 6/30/85		<u>8.3</u>
Total Discretionary Resources Available 6/30/85		\$12.1
Projected Commitments for Fiscal 1983, 1984, 1985 -	2.5	
Gen. Oblig. Bond Payments for Fiscal 1983, 1984, 1985-	2.4	<u>4.9</u>
Total Unrestricted Uncommitted Revenues		\$ 7.2
		=====

CHAPTER IV

FOLLOW-UP TO THE OCTOBER 1982 AUXILIARY AND PLANT FUND REPORT

The following chapter provides a follow-up to the information requested by the Legislative Finance Committee based on the October 1982 auxiliary and plant fund report. This chapter includes responses from the university system to information requests from the Legislative Finance Committee, the status of Western Montana College's reserves, and the 1954 indenture of Montana State University, and the use of the 1954 indenture funds for the general obligation reserve requirement.

Special Report On Bonded Indebtedness

In October 1982 the Legislative Finance Committee requested from the six colleges and universities information regarding projected auxiliary and plant revenues, auxiliary and plant fund balances, bond principal and interest requirements, and a list of all projects financed with unrestricted funds detailing the nature of the project, amount to be committed and expected completion date. To this request the university system responded with the "Special Report on Bonded Indebtedness 1983" submitted by the Office of the Commissioner of Higher Education. The "Special Report on Bonded Indebtedness 1983" contains schedules reflecting all outstanding debts,

individual bond fund balances by indenture, the minimum reserve requirements, planned expenditures and commitments by indenture, and projections of revenues, expenditures, and fund balances for fiscal years 1983, 1984, and 1985 by campus and indenture.

Based on the data included in the "Special Report on Bonded Indebtedness 1983," the university system estimates approximately \$11.7 million in unrestricted resources available from auxiliary and plant funds at fiscal year-end 1985. This figure is comparable to the \$12.1 million LFA estimate shown in Table 6. Both estimates are based on projected revenues and include operating expenses and principal and interest payments through fiscal year 1985.

Table 7 shows a comparison between LFA and university estimates for auxiliary and plant fund revenues through fiscal 1985. The LFA estimates \$12.1 million in available resources at June 30, 1985. These funds would be available to cover \$2.4 million in general obligation bond payments and \$2.5 million in various projects. The estimated \$2.5 million for projects is consistent with expenditures for projects in fiscal 1981 and 1982. The LFA estimates \$7.2 million available in unrestricted, uncommitted revenues June 30, 1985 when account is taken of general obligation bond payments.

Table 7 also shows the university estimate of \$11.7 million in available resources on June 30, 1985. The university system estimates \$2.4 million in general obligation bond payments through fiscal 1985

Table 7
Comparison of LFA/University Estimates
for Auxiliary and Plant Fund Revenues
through Fiscal 1985
(x 1,000,000)

	<u>LFA</u>	<u>University</u>
Total Discretionary Resources		
Available 6/30/85	\$12.1	\$11.7
Projected Commitments for		
Fiscal 1983, 1984, 1985	(2.5)	(8.1)
G.O. Bond Payments	<u>(2.4)</u>	<u>(2.4)</u>
 Total Unrestricted Uncommitted Revenues 6/30/1985	 \$ 7.2 =====	 \$ 1.2 =====

and \$8.1 million for commitments through fiscal 1985. The university system projects only \$1.2 million available in unrestricted uncommitted revenues at June 30, 1985.

The major discrepancy between the LFA and university system estimates in Table 7 is in the commitment of revenues after operating expenses and principal and interest payments have been satisfied. The LFA estimate of \$2.5 million for commitments is approximately \$5.6 million less than the \$8.1 million projected to be spent by the university system. The university estimate of \$8.1 million is detailed in Table 8.

The university system estimate of \$8.1 million for commitments is substantially higher than previous years would indicate. This appears

Table 8
University Estimate of Commitments
Fiscal 1983-1985

	Actual FY '82 Expenditures	University Estimates FY '83, '84, '85
<u>MSU</u>		
Special Projects	\$ -0-	\$ 100,000
Miscellaneous Projects	-0-	1,000,000
Repairs and Maintenance	<u>285,048</u>	<u>500,000</u>
Total Commitment	<u>\$ 285,048</u> =====	<u>\$1,600,000</u> =====
<u>UM</u>		
Repairs and Maintenance	\$ 99,798	\$3,200,000
Fine Arts Building	-0-	500,000
Swimming Pool Repairs	<u>-0-</u>	<u>60,000</u>
Total Commitment	<u>\$ 99,798</u> =====	<u>\$3,760,000</u> =====
<u>EMC</u>		
Repairs and Maintenance	\$ 25,544	\$ 170,000
Property Acquisition	<u>-0-</u>	<u>600,000</u>
Total Commitment	<u>\$ 25,544</u> =====	<u>\$ 770,000</u> =====
<u>MCMST</u>		
Capital Projects	\$ -0-	\$1,800,000
Repairs and Maintenance	<u>227,756</u>	<u>23,000</u>
Total Commitment	<u>\$ 227,756</u> =====	<u>\$1,825,000</u> =====
<u>NMC</u>		
Remodel Donaldson Hall	\$ -0-	\$ 130,000
Total Commitment	<u>\$ -0-</u> =====	<u>\$ 130,000</u> =====
<u>WMC</u>		
Repairs and Maintenance	\$ 10,502	\$ 47,000
Total Commitment	<u>\$ 10,502</u> =====	<u>\$ 47,000</u> =====
Total	<u>\$ 648,648</u> =====	<u>\$8,132,000</u> =====

to indicate a greatly increased level of maintenance, though information supplied on projects is often inadequate to evaluate the need for such an increase at this time.

One of the major causes for the dramatic increase is the University of Montana's estimate for repairs and maintenance on its auxiliary units constructed under the 1956 indenture. Approximately 40 percent, or \$3.2 million of the total university system estimate for commitments through fiscal 1985, are for the auxiliary units at the University of Montana. The auxiliary units include the university center, residence halls, food service, and married student housing. Table 9 illustrates the increase estimated by the university for the auxiliary units.

Table 9
University of Montana 1956 Housing Indenture
Repair and Maintenance Expenditures

<u>FY '82 Actual</u>	<u>FY '83 Projected</u>	<u>FY '84 Projected</u>	<u>FY '85 Projected</u>
\$275,055	\$425,572	\$689,025	\$815,025

The repair and maintenance expenditures in Table 9 represent capital projects and items in addition to the normal costs of operating the facilities. The University of Montana submitted the following explanation for this dramatic increase:

First, we have deferred maintenance on many of our auxiliary facilities in the past, the condition of which we can no longer ignore; our room and board rates have been artificially low in the past

and were increased to insure meeting our revenue requirements and to generate sufficient funds to enable us to properly maintain our facilities; construction and maintenance costs have been and are continuing to rise dramatically; and finally we are incurring costs that were not previously foreseeable, i.e., the electrical distribution system.

Based on the University of Montana's projections, repair and maintenance expenditures will increase 196 percent from fiscal 1982 to fiscal 1985.

The commitments estimated by Montana State University account for 20 percent of the total university system projection through fiscal 1985. MSU estimates spending approximately \$1.6 million for special and miscellaneous projects and repairs and maintenance. Of that amount \$1.0 million is for miscellaneous projects. In fiscal year 1982, MSU spent \$285,048 for such projects. The report provided no details or descriptions of the proposed projects. Nor was any explanation provided by the university regarding the purpose and need for the projects.

Montana Tech estimated a total of \$1.8 million of plant fund capital expenditure for fiscal 1983, 1984 and 1985. This estimate includes approximately \$1.2 million in various remodeling, landscaping and repair projects, and \$200,000 in land purchases. No details were provided as to the land to be purchased. Montana Tech also projected \$100,000 for completing a playing field in fiscal 1984 and \$300,000 for Health, Physical Education and Recreation facility renovation in fiscal 1984 and 1985.

Eastern Montana College has estimated expenditures totaling \$600,000 for property acquisition for fiscal years 1983, 1984, and 1985. The university is purchasing neighborhood property which lies west of the campus for expansion of the existing campus boundaries. The land is being purchased with plant funds.

Summary of Special Report on Bonded Indebtedness 1983

The "Special Report on Bonded Indebtedness 1983" clearly indicates a substantial increase in the planned expenditure of auxiliary and plant funds through the 1985 biennium when compared to the actual expenditures in fiscal 1981 and 1982. Based on fiscal 1981 and 1982 operations the university system would have approximately \$6.8 million in available revenues through fiscal 1985. Based on the university system estimates, the university system will have only \$1.2 million available at fiscal year-end 1985. This \$5.6 million increase in spending indicates a substantial acceleration in project and repairs and maintenance expenditures.

As a result of the October report, the Legislative Finance Committee requested that the universities provide a list of planned projects to be financed with excess revenues or unexpended plant funds through fiscal 1985, detailing the nature of the project, amount to be committed, and planned beginning and completion dates. The information supplied by the universities did not provide the requested details. Only after additional requests were made to each university unit was detailed information supplied.

Other Topics

In addition to the information requested by the Legislative Finance Committee in their meeting of October 1982, several other issues were addressed by the Committee. These issues included the status of Western Montana College's reserves, the 1954 indenture of Montana State University and the use of 1954 indenture funds for the general obligation reserve requirement. This section includes a brief update of these topics along with a review of the 1983 Legislature's actions concerning auxiliary and plant funds.

1. Western Montana College

In fiscal 1981, the earnings for Western Montana College were not sufficient to meet the required minimum annual deposit to the sinking fund account for the principal and interest on their 1966 bond indenture. Also, revenues were not sufficient to meet expenditures for the year. Existing balances were utilized to meet expenditures. This presented the future possibility of balances being no longer sufficient to meet reserve requirements. These facts were brought to the attention of the Legislative Finance Committee in October of 1982.

The Commissioner's office was requested by the Legislative Finance Committee to provide the Committee with information concerning the steps planned to prevent Western Montana College's reserves from falling below the level required by the 1966 Bond Indenture. The Commissioner's office instructed Western that no funds should be

withdrawn from either of the bond indentures except with approval of the Commissioner.

Western was able to meet its earnings requirement and bond obligation in fiscal 1982. Revenues under the 1966 indenture exceeded expenses by approximately \$98,000 in fiscal 1982.

2. Montana State University's 1954 Indenture

As explained to the Legislative Finance Committee in October of 1982, Montana State University allocated \$350,000 in 1981 from the surplus reserves in their 1954 indenture to meet the reserve requirement on the 1980 series general obligation bond. Montana State University's 1954 bond indenture restricts its surplus reserves for the replacement of facilities or retiring bonds. The legal counsel for the bond trustee objected to the reserve being established out of the 1954 indenture. To remedy this situation, Montana State University issued additional construction bonds for fiscal 1983 for \$1,350,000, of which \$1.0 million was for construction on the student union building and \$350,000 was for reimbursing the 1954 indenture for the \$350,000 previously pledged the general obligation bond. These bonds were sold by Montana State University as the twelfth series of bonds issued under the 1954 indenture. It remains unclear whether a university can sell bonds to pay for the reserve requirement on another bond indenture.

CHAPTER V

LEGISLATIVE APPROPRIATION OF AUXILIARY AND PLANT FUNDS

Beginning with the October 1982 report to the Legislative Finance Committee and continuing through this report, this office has identified several issues for the committee's consideration regarding the universities disposition of auxiliary and plant funds. These issues include the relationship between building fees and the level of outstanding bond debt, the funding of campus maintenance, Montana State University's 1954 Indenture, and the appropriation of auxiliary and plant funds.

Building Fees

The October report discussed the relationship between building fees and the level of outstanding bond debt of the universities. Current law, Section 2-25-302, MCA, states:

"Student building fees established and in effect on January 1, 1965, which are imposed uniformly upon all students or upon all of a specified class of students in attendance at any unit of the Montana University System shall not be increased without authorization by law unless absolutely necessary and then only to the extent necessary to pay principal or interest due on obligations for which such fees have been or shall be pledged or to maintain reserve securing the payment of such obligations in accordance with the indentures,..."

While there is no law explicitly requiring universities to reduce or

eliminate a building fee once the bond obligation is met, it would seem reasonable to adjust the fee accordingly. The law, cited above, establishes a need criteria between the level of the building fee and the level of need for the fee. Although it is not specifically stated, the implication is that once the need for the building fee is reduced or eliminated, the building fee itself should be reduced or eliminated. The retirement of bonds would, therefore, seem to eliminate or at least reduce the need for continuing to charge building fees.

The universities have chosen to "piggy-back" building fees toward the payment of several bond indentures thereby avoiding the possibility of leaving a fee unpledged. The building fee which was pledged to the Montana State University Fieldhouse is also pledged to the 1980 series general obligation bond. Now that the Fieldhouse bond has been retired, the university still collects the fee as it remains a pledged revenue, though not for the purpose to which the fee was originally pledged. Unless additional bonds are sold, this results in the accumulation of excess funds which the universities spend for a multitude of projects.

Funding Campus Maintenance

Under Section 20-25-302, MCA, the state grants the Board of Regents the authority to charge fees for the use of university buildings. These buildings include auxiliary units such as student unions and housing, and bonded facilities such as physical recreation and

fieldhouse facilities. The law allows the universities to devote revenues from these sources to debt service and reserves, and maintenance of the facilities. The law does not include the maintenance of academic buildings. The state has not granted the regents the authority to remodel or repair academic buildings with auxiliary or plant fund revenues. Academic buildings are not identified as revenue-producing facilities under Section 20-25-302, MCA. (See Appendix B.) Academic buildings are normally supported through legislative appropriation of unrestricted funds.

Nevertheless, the universities have spent funds generated from pledged revenues for the repair and maintenance of academic buildings. A brief examination of the projects initiated by the universities provides an indication of the latitude with which the universities have spent plant funds. For example, in fiscal 1982, Montana State University spent plant funds to remodel portions of academic buildings including Wilson Hall, Herrick Hall, and Reid Hall. Money was also spent to remodel the dining room at the president's residence and pay a part-time staff position. The University of Montana made similar expenditures, such as the renovation of the Sociology Department, classroom upgrades, and establishment of a forestry terminal room.

Funding maintenance projects for academic buildings with plant funds is a practice with important budgetary implications. If campus maintenance is being partially funded through plant funds, how is the

legislature to make an accurate assessment in determining appropriations needed for campus repairs and maintenance?

Montana State University's 1954 Indenture

The October report pointed out that Montana State University had utilized restricted reserves under the 1954 indenture as a reserve requirement for the 1980 series general obligation bond. Utilization of the restricted 1954 indenture fund for this purpose was unacceptable to the trustees. Subsequently, in December of 1982, Montana State University sold \$1,350,000 in revenue bonds under the 1954 indenture. The proceeds of this sale were used for construction on the student union building (\$1.0 million) and to permanently fund the general obligation bond reserve. While there is no question that the university had the authority to issue bonds to fund the construction of the student union building, it is not clear whether a bond can be sold to pay a reserve requirement for an existing bond. The Board of Regents has statutory authority to issue revenue bonds for the "construction of university buildings," (Section 20-25-301 and Section 20-25-404, MCA.) Statutes do not mention the sale of revenue bonds for the purpose of funding the reserve requirement of another bond. This action is also questionable in light of the fact that Montana State University possesses adequate existing unrestricted balances with which it could have met the general obligation bond reserve requirement.

Appropriating Auxiliary and Plant Funds

The October 1982 report outlined several options for action to the Legislative Finance Committee regarding auxiliary and plant funds. One option which was accepted stated that the committee could determine that some portion of the unrestricted plant fund balances be taken into account by the legislature for appropriation to the universities to offset state general fund dollars. During the subsequent legislative session, the Long-Range Building Committee and the House Appropriation Committee considered appropriating plant funds for university requested general fund projects. As stated earlier, the Long-Range Building Committee approved \$352,880 in plant or auxiliary funds for projects at Eastern Montana College and the University of Montana. The House Appropriation Committee voted twice on a proposal to appropriate \$1.0 million in plant or auxiliary funds for computer equipment for the university system. Although the proposal was narrowly defeated both times, members who voted against the proposal stated their reluctance was based on legal uncertainties. Members were uncertain as to whether the legislature has the authority to appropriate unrestricted university auxiliary and plant funds. The following sections will discuss the legislature's authority to appropriate unrestricted university auxiliary and plant funds.

Bond Indentures

University bond indentures restrict auxiliary and plant funds to

the extent funds are needed to pay principal and interest, to cover a legal minimum reserve, and to maintain the bonded facility. Beyond these restrictions, the bond indentures release excess funds pledged under the indenture for any lawful purpose, with the exception of Montana State University's 1954 bond. The universities have utilized these unrestricted state funds to supplement current unrestricted funds normally appropriated by the legislature to maintain the campuses. The legislature has also appropriated these unrestricted state funds for university projects. Thus, the bond indenture has not obstructed the legislature from appropriating unrestricted auxiliary and plant funds.

Laws of Montana

Universities and colleges are state agencies handling auxiliary and plant monies on behalf of the state as defined in Section 5-12-102, MCA. Auxiliary and plant monies are public funds subject to the restrictions of the bond indentures and state law. As it is the legislature's responsibility to appropriate public funds under Section 5-12-101, MCA, the legislature has the authority to appropriate all unrestricted auxiliary and plant funds.

The Constitution of the State of Montana

The 1972 Montana Constitution establishes the authority for the Board of Regents to supervise and manage the university system. This authority is the basis for the expenditure of auxiliary and plant

fund balances by the Board of Regents and the university system.

Article 10, Section 9 of the Montana Constitution states:

The government and control of the Montana university system is rested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, co-ordinate, manage, and control the Montana University System.

The legislature is provided for in the constitution in Article 3, Section 1:

The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the other, except as in this constitution expressly directed or premised.

The Montana Supreme Court has interpreted these two sections of the constitution in two cases: Board of Regents of Higher Education v. Judge, and State of Montana ex rel. Thomas L. Judge v. The Legislative Finance Committee.

In Board of Regents of Higher Education v Judge the Supreme Court recognized that regent⁺ independence was intended by the drafters of the 1972 Montana Constitution. However, the court modified that interpretation by stating:

At the same time . . . , legislative control of higher education through the appropriations process remains. The Regents are a constitutional body in Montana government subject to the power to appropriate and the public policy of this state.

Furthermore, in State of Montana ex rel. Thomas L. Judge v. The Legislative Finance Committee the Supreme Court stated that the power to appropriate is a long-established, well-recognized power of the legislature. The Court stated that legislative power over appropriations extends not only to the general fund, but to all operating public funds, including such funds as student fees.

The preceding review of the bond indentures, state law, and the Constitution has focused on the issue of whether the legislature has the authority to appropriate unrestricted auxiliary and plant funds to the university system. As indicated during the 1983 Legislative Session, uncertainty persists regarding legislative authority to appropriate unrestricted university auxiliary and plant funds.

CHAPTER VI

SUMMARY AND OPTIONS

Plant Funds and Commitments

The six university campuses had approximately \$3.8 million in unrestricted committed auxiliary and plant fund balances on June 30, 1982. If past budgetary practices continue and the relationship between revenues and expenditures remain constant, the Legislative Fiscal Analyst Office projects unrestricted uncommitted funds of over \$7.2 million will be available in the university system by fiscal year-end 1985. If additional bonds are issued without a corresponding increase in fees, then the amount available will be less. However, if fees are raised without issuing new bonds, the figure may increase. As bonds are retired more funds will become available regardless of the fluctuation of fees.

The follow-up information provided by the universities indicates an increased level of project expenditures for maintenance and repairs. For example, the projections of the University of Montana for auxiliary repairs and maintenance result in an increase of 196 percent from fiscal 1982 to fiscal 1985. Other campuses show similar large increases. Although there appears to be a greatly increased level of maintenance, the information supplied by the Office of the Commissioner of Higher Education on projects was inadequate in meeting the requests of the Legislative Finance Committee and in explaining the need for the increase at this time.

As pointed out earlier, the amount of unrestricted plant funds has been diminished by the commitment of plant funds, for a variety of projects, by the universities. Although each project may fulfill a legitimate need, the universities have spent these funds to supplement campus maintenance costs and are estimating expenditure of substantial amounts of available resources through fiscal 1985. This practice has both a legal and a budgetary implication. First, state law does not allow for the expenditure of auxiliary and plant fund balances for the remodel or repair of academic buildings. Second, the legislature is prevented from making an accurate assessment in determining appropriations needed for repairs and maintenance of academic facilities or for statewide priorities if the universities are utilizing auxiliary and plant fund balances for campus-wide maintenance projects. The university system estimates spending more than \$8.1 million through the 1985 biennium on various projects.

Issue No. 1: Legislative Appropriation of Unrestricted Auxiliary and Plant Funds

The uncertainty that persisted in the 1983 Legislature regarding the appropriation of unrestricted auxiliary and plant funds to the university system is likely to continue in the 1985 Legislature. The Legislative Finance Committee may want to resolve this uncertainty before the 1985 Legislative Session. The following options are presented to the Committee to help alleviate the uncertainty:

Option No. 1: The Committee could recommend to the legislature that it appropriate unrestricted auxiliary and plant funds to the university system for the 1987 biennium based on the information submitted in this report.

Option No. 2: The Committee could request the university system to respond to the question of legislative appropriation of unrestricted auxiliary and plant funds at a future meeting. With this response and staff analysis, the Committee could further discuss the issue and frame a recommendation to the legislature.

Option No. 3: If the committee remains uncertain as to the powers of the legislature to appropriate unrestricted auxiliary and plant funds to the university system, then it could request an Attorney General's opinion to clarify the issue.

Issue 2: Increasing Legislative Awareness of Auxiliary and Plant Funds

The Committee may want to encourage the legislature to become more actively involved in the disposition of auxiliary and plant funds when making appropriations to the university units. This may be especially important when major repairs and maintenance projects are contemplated by the universities. In view of the large amount of unrestricted funds available, and the ambitious plans by the universities to spend those funds through fiscal 1985 on various maintenance and remodeling projects, the legislature may want to consider appropriation of those funds according to legislative design.

Options for the legislature becoming more actively involved in the appropriation of these funds are presented below:

Option 1: The Committee could request information be submitted by each university describing in detail each project to be financed with unrestricted auxiliary and plant funds, including the amount to be spent, the expected completion date, and the need for the expenditure. The Committee could determine that some portion of the unrestricted auxiliary and plant funds be taken into account by the legislature for possible appropriation to the university system.

Option 2: The Committee could seek deposit of all unrestricted fund balances and revenues not required to meet the bond principal and interest payments, reserves, and necessary up-keep on the bonded facility, into the current unrestricted general operating account.

Issue 3: Accelerated Expenditure of Unrestricted Auxiliary and Plant Funds

The university system is planning an accelerated program for spending unrestricted auxiliary and plant funds through fiscal 1985. As illustrated in Table 7, the university system anticipates spending \$8.1 million for various projects during this period. In view of this and the uncertainty surrounding the legislative appropriation of unrestricted auxiliary and plant funds, the Committee may want to take some action.

Option 1: The Committee could recommend to the Board of Regents that unrestricted auxiliary and plant funds be spent only on facilities funded under existing bond indentures.

Option 2: The Committee could recommend to the Board of Regents that prior to any expenditure of unrestricted auxiliary and plant funds the board provide a detailed description of each project, including the amount to be spent, the expected completion date, and the need for the expenditures.

POSTSCRIPT

The Legislative Finance Committee, in response to the follow-up auxiliary and plant fund report, took the following actions on November 4, 1983.

(1) Attorney General's Opinion

The Legislative Finance Committee directed that the Attorney General issue a formal opinion as to whether the legislature has the authority to appropriate auxiliary and plant funds. The Committee directed that its staff, the Commissioner of Higher Education's office and the committee chairman draft questions to the Attorney General to resolve the appropriation issue. The appropriate questions are currently being drafted.

(2) 1954 Indenture Study

The Legislative Finance Committee directed its staff, the Legislative Fiscal Analyst office, to undertake a study of the Montana State University 1954 Indenture. The MSU 1954 Indenture is unique from other indentures in that it does not allow funds in excess of the reserve requirement to be used for purposes other than replacing facilities or retiring bonds. The committee expressed concern that the state possibly seek a means to eliminate the 1954 indenture due to its restrictive nature.

Appendix A

Definitions

1. Auxiliaries enterprise are substantially self-supporting activities that primarily perform a service to students, faculty and staff. The general public may be served by some auxiliary enterprises. Auxiliary enterprises include student housing, bookstores, student unions, and intercollegiate athletics.

2. Plant funds include: (1) unexpended fund, (b) retirement of indebtedness fund, and (c) renewal and replacement fund.

(a) Unexpended plant fund identifies that portion of the plant funds financial resources that is available for new construction and/or acquisition of physical properties, and related expenditures. Individual capital projects costing \$3,000 or more must be accounted within the unexpended subfund regardless of source of financing.

(b) Retirement of indebtedness fund represents funds set aside under the universities bond indenture agreements to pay principal and interest on outstanding bond debt.

(c) Renewal and replacement fund are resources available for major renovations and improvements of existing physical facilities, as distinguished from ordinary repair and maintenance, and related expenditures.

Appendix B

20-25-302. Revenue-producing facilities - powers of regents.

The regents of the Montana university system may:

(1) purchase, construct, equip, or improve, at any unit of the Montana university system, any of the following types of revenue-producing facilities:

(a) land;

(b) residence halls, dormitories, houses, apartments, and other housing facilities;

(c) dining rooms and halls, restaurants, cafeterias, and other food service facilities;

(d) student union buildings and facilities; and

(e) those other facilities specifically authorized by joint resolution of the legislature.

Appendix C

History of Auxiliary Enterprise Operations

The Montana Legislature has played a significant role in creating the laws that have provided a viable means of meeting the facility requirements needed to accomodate the tremendous growth in the demand for educational services in Montana. History reflects that both the legislature and the Regents struggled since the early 1900's over ways and means to accomodate the various building needs on the campuses. In 1971 the legislature passed legislation that set the legal framework needed to accomodate the anticipated growth. (See 20-25-301 MCA and 20-25-302 MCA). At that time, the legislature did not have adequate resources to commit to the university system. There was no question on the legislature's part that a means had to be devised to meet the needs of higher education. The legislature, the Governor, and the Regents joined forces and drafted legislation that would enable the Regents to finance univeristy building needs through the issuance of revenue bonds. The effect of the legislation was to place the cost burden for building requirements on the student, and the management burden on the Regents.