

# NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

## HIGHER EDUCATION COMMITTEE

Tuesday, October 3, 2000

Prairie Room, Student Union, Bismarck State College

1500 Edwards Avenue

Bismarck, North Dakota

Senator David E. Nething, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators David E. Nething, Tim Flakoll, Ed Kringstad, Elroy N. Lindaas, Ken Solberg, Steve Tomac, Rich Wardner; Representatives Ole Aarsvold, Eliot Glassheim, Myron Koppang, Ed Lloyd, Andrew G. Maragos, Bob Stefanowicz, Gerald O. Sveen, Janet Wentz

**Members absent:** Senators Tony Grindberg, Ray Holmberg; Representatives Al Carlson, Jack Dalrymple, Nancy Johnson

**Others present:** Audrey Cleary, State Representative, Bismarck

See attached appendix for additional persons present

**It was moved by Representative Aarsvold, seconded by Senator Solberg, and carried on a voice vote that the minutes of the August 10, 2000, meeting be approved as distributed.**

### HIGHER EDUCATION FUNDING STUDY

#### Higher Education Continuing Appropriations and Carryover of Unspent Appropriations Bill Draft

The Legislative Council staff presented a bill draft relating to the appropriation of higher education institutions' special revenue funds and the cancellation of unexpended appropriations for the North Dakota University System. Section 1 of the bill draft amends North Dakota Century Code (NDCC) Section 15-10-12 by inserting language which provides a continuing appropriation of all funds, including tuition, in higher education institutions' special revenue funds and removing language relating to biennial estimates of special fund revenues and expenditures submitted to the Office of the Budget and general fund appropriations to each institution. Section 2 of the bill draft amends NDCC Section 54-44.1-11, which provides that the Office of Management and Budget shall cancel all unexpended appropriations or balances of appropriations 30 days after the close of each biennial period, by inserting language providing that unexpended appropriations for the North Dakota University System are not subject to this section.

In response to a question from Representative Koppang regarding tuition, Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, Legislative Council, said if the bill draft becomes law, tuition income would no longer be part of the appropriation process.

In response to a question from Senator Solberg regarding the budget process, Mr. Larry Isaak, Chancellor, North Dakota University System, said the financial accountability measurements developed by the Financial Accountability Measurements Subcommittee require information to be presented regarding the amount and trends of funding from all financial sources including special funds. He said the University System's audited financial statements would also include information regarding special fund revenues and expenditures.

Senator Nething said the bill draft could be amended to retain the requirement that the North Dakota University System submit biennial estimates of special fund revenue and expenditures to the Office of the Budget at the same time as biennial budget requests.

In response to a question from Representative Maragos regarding the need for the bill draft, Senator Nething said the bill draft implements a recommendation from the funding and rewards cornerstone of the Higher Education Roundtable report which states the Legislative Assembly should remove all income from the appropriation process that is in addition to the state general fund appropriation and modify processes to provide campuses budgetary flexibility.

In response to a question from Senator Nething regarding removal of the language which requires income from tuition collections to be used by the institution for which the money was raised, Mr. Isaak said the reallocation of tuition income from the institution which collected the funds to another institution is prohibited by the Constitution of North Dakota.

In response to a question from Representative Stefanowicz regarding removal of language relating to payments from each institution's general fund appropriation, Senator Nething said a similar provision is in Article VIII of the Constitution of North Dakota.

Senator Solberg said if the language relating to each institution's general fund appropriation is not removed, the statute will conflict with other statutes

and limit the flexibility of the North Dakota University System.

In response to a question from Representative Aarsvold regarding carryover of general fund appropriations, Mr. Isaak said there is a provision in statute which allows the institutions of higher education to carry over unexpended general fund appropriations. He said the bill draft moves the provision to NDCC Section 54-44.1-11.

**It was moved by Representative Aarsvold, seconded by Representative Stefonowicz, and carried on a voice vote that the bill draft providing for higher education continuing appropriations be amended to retain the language requiring biennial estimates of special fund revenue and expenditures and requiring payments from each institution's general fund appropriation be made in amounts as necessary for the operation and maintenance of each institution.**

**It was moved by Senator Lindaas, seconded by Senator Flakoll, and carried on a roll call vote that the bill draft, as amended, relating to the appropriation of higher education institutions' special revenue funds and the cancellation of unexpended appropriations for the North Dakota University System be approved and recommended to the Legislative Council.** Senators Nething, Flakoll, Kringstad, Lindaas, Tomac, and Wardner and Representatives Aarsvold, Glassheim, Koppang, Lloyd, Stefonowicz, Sveen, and Wentz voted "aye." Senator Solberg and Representative Maragos voted "nay."

### **Higher Education Block Grant Appropriations Bill Draft**

The Legislative Council staff presented a bill draft relating to budget requests and block grant appropriations for the North Dakota University System. Section 1 of the bill draft amends NDCC Section 54-44.1-04 relating to budget estimates by adding language requiring budget estimates for the North Dakota University System to include block grants for the University System for a base funding component and for an initiative funding component for specific strategies or initiatives and a budget estimate for an asset funding component for renewal and replacement of physical plant assets at the institutions of higher education. Section 2 of the bill draft amends subsection 7 of Section 54-44.1-06 regarding contents of the budget prepared by the director of the Office of the Budget by inserting language which requires the draft of the proposed appropriations act for the North Dakota University System to include block grants for a base funding appropriation and for an initiative funding appropriation for specific strategies or initiatives and an appropriation for asset funding for renewal and replacement of physical plant assets at the institutions of higher education.

In response to a question from Senator Nething regarding the three funding components, Mr. Isaak said the Higher Education Roundtable recommended the North Dakota University System appropriation be comprised of a base funding component based on a peer institution analysis, an incentive funding component to promote the State Board of Higher Education's agenda, and an asset funding component to provide for renewal and replacement of physical plant assets.

In response to a question from Representative Glassheim regarding the block grant appropriations, Senator Nething said the block grant appropriations would be to the State Board of Higher Education, not individual institutions of higher education.

Senator Solberg said the bill draft is in conflict with the prior bill draft which refers to individual institution general fund appropriations.

**It was moved by Senator Flakoll, seconded by Senator Tomac, and carried on a roll call vote that the bill draft relating to budget requests and block grant appropriations for the North Dakota University System be approved and recommended to the Legislative Council.** Senators Nething, Flakoll, Kringstad, Lindaas, Solberg, Tomac, and Wardner and Representatives Aarsvold, Glassheim, Koppang, Lloyd, Stefonowicz, Sveen, and Wentz voted "aye." No negative votes were cast.

### **Higher Education Buildings and Improvements Bill Draft**

The Legislative Council staff presented a bill draft relating to legislative approval of capital improvement projects financed by donations, gifts, grants, and bequests. The bill draft amends NDCC Section 15-10-12.1, which provides that the State Board of Higher Education may not authorize the construction of buildings and campus improvements which are financed by donations, gifts, grants, and bequests without the consent of the Legislative Assembly, by changing the language to allow the State Board of Higher Education to authorize the construction of buildings and campus improvements financed by donations, gifts, grants, and bequests if the cost of the building or improvement is \$500,000 or less. The consent of the Legislative Assembly would be required for construction of buildings or campus improvements financed by donations, gifts, grants, and bequests if the cost was more than \$500,000. The bill draft also amends the statute to allow the State Board of Higher Education to authorize the sale of any real property or buildings which an institution of higher education has received by gift or bequest without approval from the Legislative Council's Budget Section.

In response to a question from Senator Nething regarding the proposed dollar limit, Mr. Isaak said the \$500,000 limit is an arbitrary threshold. He said currently institutions cannot complete a small

improvement project without receiving legislative approval.

Senator Nething said he is concerned with the possibility of institutions constructing new buildings with donations, gifts, grants, and bequests without informing the Legislative Assembly and then the Legislative Assembly is responsible for funding maintenance and related operating costs of the new buildings.

In response to a question from Senator Flakoll regarding the definition of an "improvement project," Senator Nething said the statute does not provide any guidelines regarding the definition of an "improvement project." He said trust must be established between the Legislative Assembly and the North Dakota University System for the provision to be implemented.

Senator Tomac suggested amending the bill draft to retain the language which requires institutions to receive legislative approval to construct buildings financed by donations, gifts, grants, and bequests.

Representative Sveen suggested amending the bill draft to allow the State Board of Higher Education to approve maintenance projects financed by donations, gifts, grants, and bequests if the cost is \$500,000 or less.

With no objection from the committee, Chairman Nething requested the Legislative Council staff to amend the bill draft as suggested.

**It was moved by Senator Wardner, seconded by Senator Flakoll, and carried on a roll call vote that the bill draft, as amended, relating to legislative approval of buildings and capital improvements financed by donations, gifts, grants, and bequests be approved and recommended to the Legislative Council.** Senators Nething, Kringstad, Lindaas, Solberg, Tomac, and Wardner and Representatives Aarsvold, Glassheim, Koppang, Maragos, Stefonowicz, Sveen, and Wentz voted "aye." Senator Flakoll and Representative Lloyd voted "nay."

### **Higher Education Bonuses and Salary Payments Bill Draft**

The Legislative Council staff presented a bill draft relating to reports by the Office of Management and Budget to the Legislative Council's Budget Section of irregularities noted in fiscal practices of state agencies and institutions. The bill draft amends NDCC Section 54-14-03.1, which defines "irregularities" as the use of state funds to provide bonuses, cash incentive awards, and temporary salary adjustments for state employees. The bill draft revises the definition of "irregularities" to exclude employees of the North Dakota University System.

In response to a question from Senator Nething regarding the need for the statutory change, Mr. Isaak said the State Board of Higher Education has assigned the responsibility of the determination of faculty salaries to the presidents of the institutions.

He said NDCC Section 54-14-03.1 does not allow the presidents to provide performance enhancement payments to faculty without reporting the payments to the Office of Management and Budget.

In response to a question from Senator Tomac regarding the reporting of irregularities, Mr. Isaak said the North Dakota University System is reporting one-time cash adjustments but is not reporting temporary salary adjustment due to personnel workload levels. He said the statute limits actions of the presidents because they do not want to be questioned or criticized for giving bonuses or cash incentives.

In response to a question from Representative Maragos regarding the constitutionality of bonuses or cash incentives, Mr. Smith said bonuses, cash incentive awards, and temporary salary adjustments are irregularities, and the Budget Section has, on numerous occasions, expressed its opposition to such payments. He said the Central Personnel Division of the Office of Management and Budget informed the Budget Section it plans to submit a bill draft to allow such payments for all employees to assist in recruitment and retention of state employees.

Representative Stefonowicz said reporting of bonuses, cash incentive awards, and temporary salary adjustments should not be considered a disincentive. He said excluding only employees of the North Dakota University System from the reporting requirements may cause a problem.

In response to Representative Stefonowicz's comments, Senator Nething said the committee's study responsibility relates only to higher education, and that is why the bill draft only relates to higher education.

**It was moved by Senator Solberg, seconded by Representative Glassheim, and carried on a roll call vote that the bill draft relating to reports to the Legislative Council's Budget Section of irregularities noted in fiscal practices of state agencies and institutions related to bonuses, cash incentive awards, and temporary salary adjustments for North Dakota University System employees be approved and recommended to the Legislative Council.** Senators Nething, Flakoll, Kringstad, Lindaas, Solberg, and Wardner and Representatives Glassheim, Koppang, Lloyd, Maragos, Sveen, and Wentz voted "aye." Senator Tomac and Representatives Aarsvold and Stefonowicz voted "nay."

### **Higher Education Strategic Plan Bill Draft**

The Legislative Council staff presented a bill draft relating to the North Dakota University System and the higher education system strategic plan. Section 1 of the bill draft creates a new section to NDCC Chapter 15-10 which recognizes that the institutions of higher education under the control of the State Board of Higher Education are a unified system of higher education and designated as the North Dakota University System. Section 2 of the bill draft amends

Section 15-10-14.2 by removing the language regarding the higher education system review and inserting language which requires the State Board of Higher Education to adopt a strategic plan process and develop a strategic plan which defines and prioritizes University System goals and objectives, including recommendations known as the Higher Education Roundtable recommendations. Section 2 of the bill draft also adds language which requires the State Board of Education to provide an annual performance and accountability report regarding performance and progress toward the goals identified in the University System's strategic plan and to report to the Legislative Assembly each regular legislative session regarding the status of higher education in the state.

In response to a question from Representative Sveen regarding the current reporting process of higher education, Senator Nething said higher education is required to report every year to the Legislative Council and the Governor on the status of the University System, including long-term goals and objectives.

**It was moved by Representative Koppang, seconded by Representative Sveen, and carried on a roll call vote that the bill relating to the North Dakota University System and the higher education system strategic plan be approved and recommended to the Legislative Council.** Senators Nething, Flakoll, Kringstad, Lindaas, Solberg, Tomac, and Wardner and Representatives Aarsvold, Glassheim, Koppang, Lloyd, Maragos, Stefonowicz, Sveen, and Wentz voted "aye." No negative votes were cast.

### Higher Education Powers and Duties Bill Draft

The Legislative Council staff presented a bill draft which amends and repeals NDCC statutes relating to powers and duties of the State Board of Higher Education and duties and responsibilities of institutions under the control of the State Board of Higher Education.

The Legislative Council staff provided the following bill draft summary:

- Section 1 of the bill draft amends NDCC Section 15-10-17 by removing references to constitutional powers of the State Board of Higher Education. This section also adds a new subsection providing authority to the State Board of Higher Education to adopt rules relating to research and development.
  - Section 2 of the bill draft amends NDCC Section 15-11-15 by removing language concerning operational procedures and details relating to tests of state mineral assets.
  - Section 3 of the bill draft amends NDCC Section 15-11-32 by removing language concerning operational details relating to the Child Welfare Research Bureau.
  - Section 4 of the bill draft amends NDCC Section 15-11-35 relating to a fetal alcohol syndrome center by removing the requirement that the center must be established in the Department of Neuroscience of the University of North Dakota School of Medicine and Health Sciences and the requirement that the director be an individual from the Department of Neuroscience.
  - Section 5 of the bill draft amends NDCC Section 15-11-36 relating to evaluation of children with fetal alcohol syndrome by removing references to the University of North Dakota Rehabilitation Hospital.
  - Section 6 of the bill draft amends NDCC Section 15-12-22 by removing language concerning operational details relating to the Economic Feasibility Institute.
  - Section 7 of the bill draft repeals the following NDCC sections:
    - 15-10-13.1 - Special training to remedy faculty English language deficiencies;
    - 15-10-14 - Standard systems of accounts and records and financial statements;
    - 15-10-15 - Higher education budget requests;
    - 15-10-25 - Abstracts of expenditures and payroll;
    - 15-11-03 - Powers of the president and faculty at the University of North Dakota;
    - 15-11-19 - Supervision of the Law School library;
    - 15-11-27 - Transfer of a license for the radio station located at the University of North Dakota;
    - 15-11-28 - Pledging of hockey and mission receipts to repay loans for hockey facilities and equipment;
    - 15-11-34 - Child Welfare Research Bureau;
    - 15-11-37 - Acceptance of gifts by the dean of the University of North Dakota School of Medicine and Health Sciences;
    - 15-12-03 - The North Dakota State University president's authority; and
    - 15-12-04 - The faculty at North Dakota State University.
- Section 7 also repeals Chapter 16-62.3 relating to the tuition assistance grant program and Chapter 47-28 relating to patents.

In response to a question from Senator Nething regarding the repeal of NDCC Section 15-10-13.1 relating to special training to remedy faculty English language deficiencies, Mr. Isaak said the section is not necessary because of a similar State Board of

Higher Education policy regarding faculty English language standards.

Chairman Nething suggested removing NDCC Section 15-10-13.1 from the list of sections and chapters to be repealed in Section 7 of the bill draft.

In response to a question from Representative Lloyd regarding the repealed NDCC sections relating to duties of campuses' presidents, Mr. Isaak said the sections should be repealed because it is the responsibility of the State Board of Higher Education to define the responsibilities, duties, and functions of the presidents of the higher education institutions.

In response to a question from Representative Sveen regarding the deletion of State Board of Higher Education powers and duties in NDCC Section 15-10-17, Mr. Isaak said the powers and duties which have been deleted are assigned to the State Board of Higher Education in the Constitution of North Dakota.

**It was moved by Senator Flakoll, seconded by Representative Lloyd, and carried on a voice vote that the bill draft be amended to remove the repeal of NDCC Section 15-10-13.1 relating to special training to remedy faculty English language deficiencies.**

**It was moved by Senator Kringstad, seconded by Senator Wardner, and carried on a roll call vote that the bill draft, as amended, relating to powers and duties of the State Board of Higher Education and responsibilities of institutions under the control of the State Board of Higher Education be approved and recommended to the Legislative Council.** Senators Nething, Flakoll, Kringstad, Lindaas, Solberg, Tomac, and Wardner and Representatives Aarsvold, Glassheim, Koppang, Lloyd, Maragos, Stefonowicz, Sveen, and Wentz voted "aye." No negative votes were cast.

### INFORMATION TECHNOLOGY UPDATE

Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, provided comments regarding the status of the statewide information technology network. A copy of his testimony is on file in the Legislative Council office. Mr. Wolfe reviewed a map of North Dakota detailing fiber optics networks established for the implementation of the statewide information technology network. He said Phase 1 of the statewide network implementation, which should be completed by the end of November 2000, will involve 64 cities and 218 locations and is estimated to cost \$3 million. He said \$1 million of the estimated cost will be paid for using funds collected from 1999-2001 biennium agency billings, and the Information Technology Department has financed the remaining \$2 million of the estimated cost with a three-year loan which will be repaid using funds received from agency billings. He reviewed the 2001-03 biennium statewide network budget, which contains Phase 2 statewide network rollout costs and recurring costs for those locations implemented in Phase 1. He said the

statewide network budget for the 2001-03 biennium is approximately \$21 million. He said the items included in the statewide network 2001-03 biennium budget are in several different entities' budget requests, including the Information Technology Division, the North Dakota University System, and the Department of Public Instruction.

### STUDY OF THE DIVISION OF INDEPENDENT STUDY

At the request of Chairman Nething, the committee discussed the study of the Division of Independent Study. Senator Solberg said with the implementation of the statewide information technology network, he is uncertain of the Division of Independent Study's future role. He said the future holds many changes for the higher education system, elementary and secondary education, and the Division of Independent Study.

Representative Aarsvold said the Division of Independent Study is a unique entity. He said the coursework and the instruction provided are needed, and the division has shown it is changing with technology with the implementation of on-line courses. He said he does not want to discourage its work.

Senator Tomac said the Division of Independent Study provides services to those students who are not being served by other school districts, and the division needs to continue.

Chairman Nething said he believes it is not necessary for the Division of Independent Study to make any changes at this time. Without objection from the committee, Chairman Nething said the committee will conclude its study of the Division of Independent Study.

The committee recessed at 11:50 a.m. and reconvened at 12:30 p.m.

### BISMARCK STATE COLLEGE BUDGET TOUR

Dr. Donna Thigpen, President, Bismarck State College, welcomed the committee to the campus of Bismarck State College and reviewed Bismarck State College accomplishments for the 1999-2001 biennium. A copy of her testimony is on file in the Legislative Council office.

Dr. Thigpen said during the 1999-2001 biennium the college:

- Completed renovation of Schafer Hall hallways and the Student Union and construction of the Tom and Frances Leach Music Center.
- Provided training to 239 businesses under the work force training initiative.
- Entered into a partnership with Mid-Continent Area Power Pool to purchase simulated power plant software.
- Signed an agreement with North Dakota State University regarding seamless transfer of engineering credits.

- Entered into collaborative and cooperative programs with other educational institutions to provide additional educational programs on campus.

In regard to distance education and on-line courses, Dr. Thigpen said 275 unduplicated students enrolled in 54 classes for the fall 2000 semester. She said the seat count for on-line courses for the fall 2000 semester was 761. She said all classes for the power plant technology, process plant technology, information processing specialist, and criminal justice programs are available on-line.

Mr. David Clark, Vice President, Operations and Corporate and Continuing Education, Bismarck State College, provided information regarding the college's enrollment, 2001-03 biennium budget request, and the per credit hour tuition pilot project. A copy of his testimony is on file in the Legislative Council office.

Mr. Clark said the college experienced a record high headcount enrollment of 2,838 for the fall 2000 semester. He said reasons for the record enrollment include increased marketing and recruiting activities and an increased number of individuals in the area seeking technical education. He said the 2001-03 biennium budget request includes funding of approximately \$1.4 million for the continuation of the Schafer Hall renovation project. He said the project provides for more usable space for student services and business office staff, classrooms, and faculty offices. He said Bismarck State College, in cooperation with Northern States Power and Mid-Continent Area Power Pool, has agreed to create an on-line system operator program, and the 2001-03 biennium budget request includes an optional adjustment to assist with the establishment of the program. He reviewed the fall 2000 semester results of the per credit hour tuition pilot project. He said under the per credit hour tuition pilot project, the college experienced a headcount enrollment increase of 95 and additional revenue of approximately \$118,000. He said the college also experienced a decrease of 115 in the number of students who were enrolled in 18 credit hours or more.

In response to a question from Senator Flakoll regarding the per credit hour pilot model, Dr. Thigpen said the college does not have data regarding how the model is affecting the time students take to receive a degree. She said the per credit hour pilot project has decreased the number of students who were signing up for over 19 hours of credits, then deciding which classes to attend after the first week of classes, and dropping other classes.

In response to a question from Senator Solberg regarding the work force training initiative, Dr. Thigpen said she is pleased with the college's implementation of the work force training initiative. She said the college experienced an increase of 51 percent in the number of training hours conducted for fiscal year 2000.

The committee conducted a tour of Bismarck State College, including the vocational education building, the Jack Science Center, and Schafer Hall.

## COMMITTEE DISCUSSION

At the request of Chairman Nething, the committee discussed the budget tours of the University of North Dakota, Mayville State University, North Dakota State University, the State College of Science, Valley City State University, and Bismarck State College.

In response to a question from Senator Solberg regarding the decrease in Minnesota reciprocity revenue at North Dakota State University, Mr. Isaak said North Dakota State University was not the only institution to experience a decrease in revenue from the Minnesota reciprocity agreement. He said the State College of Science is projecting a revenue shortfall for the 1999-2001 biennium due to a decrease of Minnesota reciprocity revenue, and the University of North Dakota also experienced a decrease in the amount of Minnesota reciprocity funds but was able to offset the decrease with an increase in tuition collections due to an increase in enrollment.

In response to a question from Senator Tomac regarding North Dakota University System procedures relating to the counting of students, Mr. Isaak said the University System office is in the process of determining an appropriate process for counting students attending higher education institutions. He agreed that it is important to have rules in place for consistent counting of students.

In response to a question from Senator Solberg regarding the per credit tuition pilot project at Bismarck State College, Mr. Isaak said institutions should be evaluated on an individual basis to determine if it would be appropriate to implement a per credit tuition model. He said in areas of high competition a per credit tuition model may drive students to seek higher education at other institutions.

In response to a question from Senator Solberg regarding the selection of peer institutions for the base fund appropriation, Mr. Isaak said the University System office is in the process of developing criteria for selection of peer institutions. He said the State Board of Higher Education has contracted with Mr. Dennis Jones, President, National Center for Higher Education Management Systems, Boulder, Colorado, to perform an objective analysis of the selection of peer institutions and plans to have the peer institutions selected by the start of the 2001 Legislative Assembly.

Senator Nething said it is important for the peer institutions selected to have as many "common denominators" with the corresponding North Dakota higher education institutions as possible.

**It was moved by Senator Wardner, seconded by Senator Kringstad, and carried on a roll call vote that the chairman and staff of the Legislative**

**Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Council.** Senators Nething, Flakoll, Kringstad, Lindaas, Solberg, Tomac, and Wardner and Representatives Aarsvold, Glassheim, Koppang, Lloyd, Maragos, Stefonowicz, Sveen, and Wentz voted "aye." No negative votes were cast.

The meeting was adjourned sine die at 3:10 p.m.

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Roxanne Hobza  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:1