

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2034

2005 SENATE EDUCATION

SB 2034

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2034

Senate Education Committee

Conference Committee

Hearing Date 01/12/05

Tape Number	Side A	Side B	Meter #
1	x		0-1050
Committee Clerk Signature <i>Patty Wilkins</i>			

Minutes: Relating to higher education institutions' special revenue funds, budget requests and block grant appropriations, and unexpended appropriations; and to declare an emergency.

**Senator Layton Freborg**, Chairman called the meeting to order on SB 2034

**All Senators were present.**

**Testimony in support of the Bill:**

Roxanne Woeste, with the Legislative council, higher education committee, introduced the bill.

A brief explanation on of the two bills, first bill, SB 2034, this amends sections 15-10-12 to continue the continuing appropriations authority for Higher Education Institution, including tuition through the 2005-2007 biennium. It was effective through June 30, 2005 as of right now, this bill would simply extend that through June 30, 2007. Note, SB 2003 is a appropriation bill for the North Dakota University Systems. Does provide these similar provisions however, I should say that it provides for the continuation of the continuing appropriation authority.

However, it does provide without a sunset clause. Therefore what you see there on pg. 1 section 1

, the effective date which we amend to 2007 it takes out that effective date, and deletes the language that you see on pg. 2 and 3. That's the difference between the two bills, SB 2034 and SB 2003.

Senator G. Lee : Why the difference between the two?

Roxanne Woeste : I can't speak for the Governor, as you know the Governor recommended SB 2003 provided the information that is included in that bill. I can speak for the Higher Education Committee, when they worked on this bill draft to recommend to the SB 2003. The SBHE did come in and ask to make this legislation permanent. The committee at that time thought it would be wise to implement legislation for another two yr. period so they can continue to look at how flexibility with accountability will function.

Senator Flakoll : What is the need for the emergency clause? Also what's the rational to be effective date June 30, 2007?

Roxanne Woeste: The emergency clause is needed on this bill to provide the continuation of the provisions with out interruption. As of now it says right now, effective through June 30, 2005 that is currently in statute. This bill would not have an effective date because there is not appropriation clause in it until August 1, 2005. Therefore to continue these provisions that are currently in statute, we need to have an emergency clause on the bill, so it will take immediately upon the Governor signature and we won't have any interruption. The 2nd ? effective date? on page 2 the section that begins effective after June 30, 2005, when first put into law they wanted a 2 yr. period, so that's why we had a effective date, if they didn't like it then the continuing appropriations would cease to exist and we would go back to the statute ( meter 452)

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Senate Education Committee

Bill/Resolution Number SB 2034

Hearing Date 1/12/05

Senator Freborg : I would assume whichever bill is the last one signed by the Governor is the one that will become law, with the effective date. We have a difference between two different bills. If they are not reconciled during session I believe whichever one becomes last will set the date.

Roxanne Woeste : I believe that is correct.

Senator Freborg : Would it not be proper to reconcile the bills?

Roxanne Woeste: I believe that would be best. That would be up to your committee. If you would like to continue the provisions for 2 more years or indefinitely.

Senator Freborg : Have they heard 2003?

Roxanne Woeste : No they have not. I believe it is on the schedule for next week. (meter 590)

Senator Freborg :What is your preference?

Roxanne Woeste : No preference.

Roxanne Woeste : Would you like to go over the next bill or hear them separate.

Senator Freborg : We will hear them separate.

Senator Freborg : Other testimony

Robert Potts : Chancellor of the North Dakota University System

See attached: written testimony

no questions

**Testimony in opposition of the Bill:**

None in opposition

**Senator Freborg** : closed the hearing on SB 2034

Senator Freborg : Committee?

Senator Flakoll, Made a motion for a do pass as amended on SB 2034, Seconded By, Senator G. Lee

Senator Freborg : said to Senator Flakoll evidently you don't we need to change the language to be compatible with 2003?

Senator Flakoll : They would have to do that over there, right?

Senator Freborg : No

Senator Flakoll : What would your wishes be in terms of that?

Senator Freborg : Well if we want this bill to be compatible with 2003 we need to make it a continuing situation or we'll never see the bill back again. If we put this in and they don't change their bill, which ever one passed into law, I am assuming that OMB and the Governor office drafted 2003 and that's what they want. We can hold the bill and talk to Senator Holmberg. I don't think that we should pass the bill out if we know there is a major difference in what each committee wants to do

Senator Flakoll : I am willing to hold it, so I withdraw my motion.

Senator Freborg : You would prefer to speak with Senator Holmberg then?

Senator Flakoll : Yes

Senator Freborg : We will take no action on SB 2034

The meeting was adjourned.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2034

Senate Education Committee

Conference Committee

Hearing Date 01/17/05

Tape Number	Side A	Side B	Meter #
1		x	2800-3890
Committee Clerk Signature <i>Patty Wilkew</i>			

Minutes: **Relating to higher education institutions' special revenue funds, budget requests and block grant appropriations, and unexpended appropriations; and to declare an emergency.**

**Senator Layton Freborg**, Chairman called the meeting to order on SB 2034 up for discussion

**Senator Freborg** : Board of Higher Education want SB 2003, the round table and Higher Education interim committee want 2034, 2035.

**Senator Seymour** : Not sure that I understand it, do they just try to limit, it's going to come back here if it goes through us. The funding is forever if it goes through 2003?

**Senator Freborg** : In 2003 they remove the sunset, and in this bill it is good for two years.

**Senator Seymour** : So who is they, Ray, is the head of the budget committee and also the head of the round table.

**Senator Freborg** : He believes they will pass out 2003 as it is. 2003 is supported by the Board of Higher Education.

**Senator Seymour :** So if I support the Board of Higher Education, I should vote these two bills down?

**Senator Freborg :** Yes, if you support them then I guess you would vote against these bills then. That would remove the sunset on 15-10-12, that's all it would do.

**Senator Flakoll :** Chancellor Potts appeared in 2034 and 2035 in his testimony.

**Senator Taylor :** If we pass these and 2003 passes appropriations and obviously we can't have a no sunset and a 2007 sunset, what will be the remedy then? It will have to work out in the House it's not going to come back to conference then?

**Senator Freborg :** I am assuming that the House is going to reconcile the bills and then come to a mutual conclusion in those three bills. If they don't I would guess then that the last bill signed by the Governor would become law. That portion of it, I think it will get resolved before it gets to that point. We can do whatever we want. If we don't pass 2034, I think we need to eliminate the date all together, effective through 2005. What happens if we don't pass the bill??

**Senator Taylor :** Appropriations bill language would go into effect, August 1, 2005 and this current sunset and June 30, 2005 so there is a month of hang time. I think that is why they introduced these as well.

**Senator Flakoll,** Made a motion for a do pass as amended on, Seconded By, **Senator Taylor**

**Senator Flakoll :** I think we need to keep this alive, from the discussion stand point, and the realization of 2003 will probably one of the last five out of the session, or to be signed.

**Senator Freborg :** This may be a little discussion on the floor that 2003 is contrary to these bills. These could be explained. Only the appropriations know what is in 2003

**Senator Taylor** will carry the bill to the floor.

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Senate Education Committee

Bill/Resolution Number 2034

Hearing Date 01/17/05

**Senator Freborg** : closed the hearing on SB 2034

There was no further discussion

There being no other discussion roll call vote was taken. vote: 6-0-0

The meeting was adjourned.



**REPORT OF STANDING COMMITTEE (410)**  
January 17, 2005 1:57 p.m.

**Module No: SR-10-0570**  
**Carrier: Taylor**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2034: Education Committee (Sen. Freborg, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2034 was placed on the**  
**Eleventh order on the calendar.**

2005 HOUSE EDUCATION

SB 2034

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2034

House Education Committee

Conference Committee

Hearing Date **14 February 2005**

Tape Number	Side A	Side B	Meter #
1	X		150 - 1300
Committee Clerk Signature 			

Minutes:

**Chairman Kelsch opened the hearing on SB 2034.**

**Robert Potts, chancellor of the ND University System,** appeared in support of SB 2034.

**(Testimony attached.)** He asked the Committee to consider the same testimony for SB 2035.

**Rep. Hanson:** Why don't you make permanent instead of two years at a time?

**Potts:** We have requested that. The Interim Education Committee decided to recommend to the Legislature that we extend it for another two years rather than make it a permanent part of the Century Code. We think it's proved out so well that we would like to see it a permanent part of the Century Code. This legislation was drafted at the recommendation of the Interim Education Committee so we respect that. We understand the interest in keeping us on a little shorter leash.

**Rep Mueller:** When gifts, donations, grants, etc., come in, is there a formal accounting of the and who it is that gave them. Do you get anonymous gifts where the donor does not want themselves identified.

**Potts:** It depends on what entity is doing the fund raising. If it's one of the affiliated foundations, frequently there is a request for anonymity. The only disclosure would be in the federal tax return which becomes a public record. I don't believe there's a formal audit of those, but when it comes over to the university anything that comes into the coffers needs to be identified but it may only be identified as from one of the foundations. There is a careful accounting and those separate foundations are subject to their own audit. Frequently the vehicle for fund raising is an affiliated foundation. I don't know of any problems that have arisen or called to my attention as a result of any misappropriation or failure to disclose. We certainly want to honor the commitments that are made to donors. May wish to remain anonymous and you need to respect that.

**Rep. Hunsakor:** I hear you talk about the university system and the round table. You have been in other states and you know something about how they function there. How do you see our university system. Where do we sit country wide?

**Potts:** Frankly, it was because of the round table planning process that I was interested in coming and making my home in ND. I have been national meetings where ND and the state of Kentucky were held up as examples for all other states as two of the states who have done the best job of aligning the needs of the state with the goals and aims of the university system or vice versa. What this process has done has brought the private sector, the governmental sector and the university system together to forge a common vision. I don't know anywhere it has been done any better.

**Rep. Hawken:** What you all have done is truly amazing and this group has heard me say this before that having the opportunity to serve on the Higher Ed Interim Committee and seeing what

is happening on all of the campuses and to see the economic agency running those communities is amazing and very impressive. I learned a lot that I didn't know and I really believe that the higher ed community has taken this authority that they've been given and used it in only a positive manner. If we were to say that this was not just a two-year program, if you weren't doing a good job that down the line we couldn't come back and say "nope" and change it. I'm not sure why we have to look at this every two years when we have an example of how well it's worked. I'd certainly be happy to see it permanent.

**Potts:** That's true, it could be revisited and changed and it would not automatically come up each session and sunset at the end of every biennium.

**Rep. Hawken:** We do too much of that. We look at the same things and we could be looking at something else that could be more visionary if we weren't always dealing with the same thing.

**Potts:** We agree with you wholeheartedly.

**Rep. Herbel:** Any time you make changes like this there is something that appears to come up that just doesn't fit the way you intended. Have you encountered any kind of negative feedback on this.

**Potts:** Only some private discussions with members of the Legislature who indicated to me that they felt there is not enough control left in some of these expenditures. These people would not be fans of the round table because it involves a shift of authority from Legislature to the university system in some respects and trusting the system to be good stewards. I have seen nothing in my short time here that would indicate the university system and the campuses have not respected that trust.

**There being no further testimony on SB 2034, Chairman Kelsch closed the hearing.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2034**

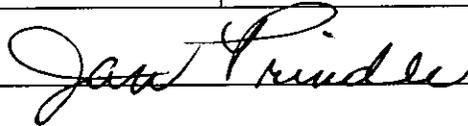
House Education Committee

Conference Committee

Hearing Date **15 February 05**

Tape Number	Side A	Side B	Meter #
1	X		4305 - 4670

Committee Clerk Signature



Minutes:

**Chairman Kelsch opened discussion of SB 2034.**

**Chairman Kelsch:** I know there was some discussion about visiting this subject every two years and we should just go ahead and give the SBHE the continuing authority. Being it came through the Interim Committee that has a lot of really good people that participated in the Round Table, I think it best that we just leave it this way for another two years. In two years we'll have enough of a foundation to know that the flexibility is working and then we can give them that carte blanc authority. At this time I'm more comfortable in leaving it the way this bill is written.

**Rep. Herbel:** At this point from everything that I've ever heard, the system is working great. I wouldn't have a problem changing it, but two years down the road we might find something that needs to be addressed and then they wouldn't have this freedom.

**Chairman Kelsch:** Then we can address that if we need to.

**Rep. Norland:** Is it appropriate to take both bills at one time?

Page 2  
House Education Committee  
Bill/Resolution Number **SB 2034**  
Hearing Date **15 Feb 05**

**Chairman Kelsch:** No, we'll need to vote on them separately.

**Rep. Norland:** I move a **Do Pass** on **SB 2034**

**Rep. Meier:** I second.

A roll call vote was taken.

**Yes: 12 No: 0 Absent: 2 The motion passed.**

**Rep. Mueller will carry the bill.**

Date: 15 Feb 05  
 Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2034**

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Norland Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep. Hanson	✓	
Vice Chairman Johnson	✓		Rep. Hunsakor	0	
Rep. Haas	✓		Rep. Mueller	✓	
Rep. Hawken	0		Rep. Solberg	✓	
Rep. Herbel	✓				
Rep. Horter	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Wall	✓				

Total (Yes) 12 No 0

Absent 2 (Hawken + Hunsakor)

Floor Assignment Mueller

If the vote is on an amendment, briefly indicate intent:

C

**REPORT OF STANDING COMMITTEE (410)**  
February 15, 2005 11:39 a.m.

**Module No: HR-30-2937**  
**Carrier: Mueller**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2034: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS**  
**(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2034 was placed on the**  
**Fourteenth order on the calendar.**

TESTIMONY

SB 2034

# North Dakota University System

## TESTIMONY TO SENATE EDUCATION COMMITTEE on SB 2034 and SB 2035

Robert L. Potts, Chancellor

JANUARY 12, 2005

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Mr. Chairman and Members of the Committee:

Hello, I am Robert Potts, Chancellor of the North Dakota University System. I appreciate the opportunity to appear before you today in support of SB 2034 and SB 2035. These two bills are part of the flexibility with accountability legislation and are highly important to the North Dakota University System.

### What Do These Bills Do?

SB2034: Under this bill tuition revenues at NDUS campuses would be appropriated in the same way all other institutional funds such as grants and contracts, auxiliary revenues and private funds are appropriated for another two-year period, through June 30, 2007.

SB2035: This bill provides for appropriations in two line items for operations and capital assets; and for specific strategies or initiatives for another two-year period, through June 30, 2007.

### History

The Higher Education Roundtable adopted the following major theme as part of the Roundtable cornerstone on funding and rewards:

*"In managing the resources available to them, the SBHE, Chancellor and Presidents should have flexibility with accountability. The rules and regulations governing use and management of resources should:*

- a. Delegate responsibility and authority for use of resources to the NDUS in exchange for adherence to agreed-upon procedures for demonstrating accountability;*
- b. Encourage institutions to act entrepreneurially in pursuit of resources from private sector and sources outside the state;*
- c. Reward collaboration between and among institutions where appropriate;*
- d. Extend rewards to units and employees on campuses, which demonstrate exemplary performance consistent with these principles. "*

In keeping with this theme, the Roundtable made the following specific recommendations:

*“Executive and Legislative branches:*

- a. Remove all income, including tuition, which is in addition to the state general fund appropriation, from the specific appropriation process;*
- b. Modify processes to provide the campuses budgetary flexibility by:*
  - removing restrictions on the use of carryover funds from one biennial period to the next.*
  - allowing the campuses to determine the renewal and replacement projects to be funded on the individual campuses within their own institutional resources.*
  - eliminating restrictions on pay practices.*
  - providing maximum spending flexibility within base funding appropriations.*
- c. Continue to approve the construction of new facilities and the major renovation of existing facilities.”*

These measures were first enacted in 2001 as part of the historic flexibility with accountability legislation. It was extended for another two-year period by the 2003 Legislative Assembly through the end of this biennium, expiring on June 30, 2005, unless re-enacted.

## **How These Bills Work?**

### SB2034

All income, including tuition revenues, would continue to be deposited with the Bank of North Dakota. All income would also continue to be disclosed as part of the biennial budget process as required on page 2, lines 1-4 of SB2034 as follows:

*“Biennial estimates of revenue and expenditures of the other funds by source of funds must be presented at the same time biennial budget requests for appropriations from the special revenue fund and state general fund are prepared and submitted to the office of the budget.”*

All NDUS income would also continue to be subject to an annual financial audit performed by the State Auditor’s Office and would be disclosed, in detail, in the NDUS’s and state’s annual comprehensive financial statement (CAFR).

In addition, several of the fiscal accountability measures adopted by the legislature provide information on these sources of funds. Examples include:

- the amount and trends of funding from all financial sources;
- operating and contributed income ratio;
- trend reports on the distribution of expenditures by function;
- status of long-term finance plan;
- allocation and use of incentive funding.

## SB2035

This bill continues the current 2003-05 appropriation bill format of two line items- Operations and Capital Assets. Funds can either be appropriated by campus as was done in 2003-05, or, in a block grant to the SBHE for allocation to the campuses as currently proposed by the governor in SB2003. That decision is still left to each legislature. The main purpose of the bill provides that appropriations will be made in two line items either to the campus or board. It also provides that appropriations be made for initiative funding.

### **What Are the Benefits of this Legislation?**

Here are some of the benefits that this legislation is currently providing:

- Campuses that have growing enrollments are able to hire faculty and add class sections on a timely and responsive basis since tuition revenues are available immediately rather than waiting for lengthy approval processes.
- Campuses are better able to manage spending priorities and allocate resources to high priority needs, without burdensome approval processes.
- Campuses are attracting more non-state revenue sources from federal grants and private partnerships.
- The SBHE is focusing more of its efforts and resources on high-priority state or system needs and long-term direction.
- Campuses are better able to respond to donors and proceed with timely (and often less costly) construction.
- Campuses are developing many more private sector partnerships through entities such as research and technology parks.
- Campuses are better able to maximize their revenues and manage their enrollment targets.
- Significant staff time is being saved in development of budgets.

Taken together, the increased flexibility is seen as a visible sign of building a trusting relationship and also a sign of support for campuses to be more entrepreneurial.

The State Board of Higher Education and every campus president appreciates your past support of this important legislation. It has been exciting to watch the significant progress in moving ahead the Roundtable vision and corresponding recommendations by all of the partners involved. This significant progress has resulted in national attention and recognition for North Dakota. There is an excitement, energy and new way of thinking at the campus level which has

created an economic benefit for the state and better access for its citizens. Much of this progress can be credited to the increased flexibility you have provided the campuses.

We respectfully request you enact the provisions in these measures and make them a permanent part of the ND Century Code. If you do not wish to do so, we request an extension of these measures for another two years. I believe the NDUS has consistently demonstrated over the past four years, since this flexibility legislation was originally enacted, that the System has been a good steward of the state's resources and has used the expanded flexibility to serve students and assist the state in growing its economy.

Thank you. I will be happy to answer any questions.

SB 2034  
2035  
14 Feb 05

**North Dakota University System**  
**TESTIMONY TO HOUSE EDUCATION COMMITTEE**  
**on SB-2034 and SB-2035**

**Robert L. Potts, Chancellor**

*FEBRUARY 14, 2005*

Madame Chair and Members of the Committee:

Hello, I am Robert Potts, Chancellor of the North Dakota University System. I appreciate the opportunity to appear before you today in support of SB-2034 and SB-2035. These two bills are part of the flexibility with accountability legislation and are highly important to the North Dakota University System.

SB-2034 would allow tuition revenues at NDUS campuses to be appropriated in the same way all other institutional funds such as grants and contracts, auxiliary revenues and private funds are appropriated for another two-year period, through June 30, 2007. All income, including tuition revenues, would continue to be deposited with the Bank of North Dakota and would continue to be disclosed as part of the biennial budget process as required by the legislation. All NDUS income is subject to an annual financial audit performed by the State Auditor's Office and would be disclosed, in detail, in the NDUS's and state's annual comprehensive financial statement (CAFR). In addition, several of the fiscal accountability measures adopted by the legislature provide information on these sources of funds.

SB-2035 provides for appropriations in two line items for operations and capital assets; and for specific strategies or initiatives for another two-year period, through June 30, 2007. This bill continues the current 2003-05 appropriation bill format of two line items-Operations and Capital Assets. Funds can either be appropriated by campus as was done in 2003-05, or, in a block grant to the SBHE for allocation to the campuses as currently proposed by the governor in SB2003. That decision is still left to each legislature.

The Higher Education Roundtable charged the NDUS with "enhancing the economic vitality of North Dakota and the quality of life of its citizens through a high quality, more responsive, equitable, flexible, accessible, entrepreneurial, and accountable University System." In doing so, the Roundtable members made recommendations and established related accountability measures in each of the following six key cornerstones: economic development, education excellence, flexible and responsive system, accessible system, funding and rewards, and sustaining the vision. Specific recommendations were made in the funding and rewards cornerstone encouraging the legislative and executive branches to provide lump sum appropriations and remove all income, other than state general fund appropriations, from the specific appropriation process.

Both the executive and legislative branches endorsed these recommendations and enacted changes in 2001, as part of the historic flexibility with accountability legislation. It was extended

for another two-year period by the 2003 Legislative Assembly through the end of this biennium, expiring on June 30, 2005, unless re-enacted. Here are some examples of how it has made a difference:

- Campuses that have growing enrollments are able to hire faculty and add class sections on a timely and responsive basis since tuition revenues are available immediately rather than waiting for lengthy approval processes.
- Campuses are better able to manage spending priorities and allocate resources to high priority needs, without burdensome approval processes.
- Campuses are attracting more non-state revenue sources from federal grants and private partnerships.
- The SBHE is focusing more of its efforts and resources on high-priority state or system needs and long-term direction.
- Campuses are better able to respond to donors and proceed with timely (and often less costly) construction.
- Campuses are developing many more private sector partnerships through entities such as research and technology parks.
- Campuses are better able to maximize their revenues and manage their enrollment targets.
- Significant staff time is being saved in development of budgets.

Taken together, the increased flexibility is seen as a visible sign of building a trusting relationship and also a sign of support for campuses to be more entrepreneurial. The State Board of Higher Education and every campus president appreciates your past support of this important legislation. It has been exciting to watch the significant progress in moving ahead the Roundtable vision and corresponding recommendations by all of the partners involved. This significant progress has resulted in national attention and recognition for North Dakota. There is an excitement, energy and new way of thinking at the campus level which has created an economic benefit for the state and better access for its citizens. Much of this progress can be credited to the increased flexibility you have provided the campuses.

We respectfully request you enact the provisions in these measures and make them a permanent part of the ND Century Code. If you do not wish to do so, we request an extension of these measures for another two years. I believe the NDUS has consistently demonstrated over the past four years, since this flexibility legislation was originally enacted, that the System has been a good steward of the state's resources and has used the expanded flexibility to serve students and assist the state in growing its economy.