

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

HIGHER EDUCATION COMMITTEE

Thursday, May 25, 2000
Roughrider Room, State Capitol
Bismarck, North Dakota

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

Members present: Senators David E. Nething, Tony Grindberg, Ed Kringstad, Elroy N. Lindaas, Ken Solberg, Rod St. Aubyn, Steve Tomac, Rich Wardner; Representatives Ole Aarsvold, Jack Dalrymple, Eliot Glassheim, Nancy Johnson, Myron Koppang, Andrew G. Maragos, Gerald O. Sveen, Janet Wentz

Members absent: Senators Tim Flakoll, Ray Holmberg; Representatives Al Carlson, Ed Lloyd, Bob Stefanowicz

Others present: See attached appendix

Also in attendance was Senator Gary J. Nelson, Chairman of the Legislative Council

It was moved by Senator St. Aubyn, seconded by Representative Wentz, and carried on a voice vote that the minutes of the October 29, 1999, and April 19, 2000, meetings be approved as distributed.

HIGHER EDUCATION FUNDING STUDY

The committee received the Higher Education Roundtable report and a supplemental report entitled *Recommendations by Proposed Responsibility*. A copy of each report is on file in the Legislative Council office.

Ms. Jeanette Satrom, President, State Board of Higher Education, said it was a privilege to be part of the Higher Education Roundtable. She also said it is important for everyone to work together on accomplishing the goals of the roundtable, and the State Board of Higher Education stands "ready, willing, and able" to accomplish the goals.

Mr. Larry Isaak, Chancellor, North Dakota University System, commented on the executive summary included in the Higher Education Roundtable report. He said overall the executive summary captures the essence of what the Higher Education Roundtable accomplished. He also said the following statement contained in the executive summary regarding the roundtable recommendations is a simple message which came through all task forces: "Taking together, however, they combine to send a simple message--there must be a new form of relationship between the North Dakota University System and the state, a relationship based on trust and common purpose rather than suspicion and skirmishes over power."

Mr. Isaak also provided testimony regarding statutory and policy change suggestions for implementing the Higher Education Roundtable recommendations; North Dakota University System plans for implementation of the Higher Education Roundtable recommendations; and the current higher education funding model and possible components of a new higher education funding model. A copy of Mr. Isaak's testimony is on file in the Legislative Council office.

Mr. Isaak identified the following statutory and policy change suggestions:

1. Enact a statute recognizing the North Dakota University System as a unified system of higher education.
2. Review and update statutes relating to the powers of the State Board of Higher Education and institution missions to support a responsive, flexible, entrepreneurial, and accountable University System in accordance with roundtable expectations and recommendations.
3. Review and update State Board of Higher Education policies relating to institution missions to add special emphasis on technical education and work force development, entrepreneurship programs, and partnerships with tribes and opportunities for American Indians.
4. Revise statutes relating to budget requests to eliminate excessive detail relating to the North Dakota University System.
5. Enact a law providing for lump sum appropriations to the State Board of Higher Education and/or North Dakota University System institutions. Also, amend statutes governing deposit of funds to provide that tuition and other institution revenue are not specifically appropriated but are subject to a continuing appropriation and may be spent as approved by the State Board of Higher Education and to permit institutions to carry over from one biennium to the next all local revenue and general funds.
6. Establish a process for reaching consensus concerning a revised set of North Dakota University System fiscal reports and audits consistent with roundtable expectations and recommendations.

7. Amend statutes relating to higher education system review and a six-year plan to provide for annual roundtable meetings, strategic planning, and review involving both public and private sector leaders in accordance with roundtable expectations and recommendations.
8. Amend statutes relating to "fiscal irregularities" and appropriation measures to remove additional reporting requirements and restrictions on performance-based compensation or other incentives. Amend State Board of Higher Education policies relating to salaries to encourage salary increases and other incentives based on outcomes.
9. Review State Board of Higher Education policies relating to purchasing to permit greater flexibility.
10. Amend statutes and State Board of Higher Education policies relating to patents and copyrights to encourage more high-potential research. Also, review funding and provide greater support for research projects such as Experimental Program to Stimulate Competitive Research (EPSCoR) and provide incentives and rewards to encourage employees to pursue research opportunities.
11. Review State Board of Higher Education policies to:
 - a. Streamline the program approval, termination, evaluation, and student proficiency process.
 - b. Eliminate unnecessary reporting.
 - c. Provide institutions with greater flexibility to meet changing demands.
 - d. Shift focus to results-based or outcomes-based system of accountability.
12. Review State Board of Higher Education policies relating to tuition to enhance ways to attract students.
13. Amend statutes or establish Budget Section guidelines relating to buildings and improvements financed with private funds to clarify when the State Board of Higher Education may authorize improvements or renovations without Budget Section approval.

In response to a question from Senator Solberg regarding the suggestion to enact a statute recognizing the North Dakota University System as a unified system of higher education, Mr. Isaak said the State Board of Higher Education is not charged with the responsibility to develop a unified university system, but the board has done so on its own and would like the Legislative Assembly to affirm that responsibility.

In regards to State Board of Higher Education plans for implementation of the Higher Education Roundtable recommendations, Mr. William Isaacson, President-Elect, State Board of Higher Education, said board members will discuss the

recommendations and plans for implementation during their annual retreat in July. He also said the Higher Education Roundtable report provides a clear and shared vision for higher education in North Dakota and should be used to revise the North Dakota University System's strategic and long-range plans.

Mr. Isaak outlined North Dakota University System plans for implementation of the Higher Education Roundtable recommendations. He said college and university presidents, who were members of the roundtable, have been asked to present suggestions on steps to be taken at the campus level to implement the recommendations of the roundtable. Also, the North Dakota University System's 2001-03 needs-based budget request includes two special funding pools--public agenda/collaborative initiatives and institutional innovation. He said the public agenda/collaborative initiative pool would be allocated by the State Board of Higher Education to fund initiatives and/or reward collaboration consistent with recommendations of the roundtable, and the institutional innovation funds would be allocated to each campus to provide seed money for the implementation of roundtable recommendations.

In addition, Mr. Isaak said the North Dakota University System has formed a committee to begin reviewing suggested funding methodologies consistent with recommendations of the roundtable, and the North Dakota University System plans to arrange meetings with other agencies/entities where dual implementation responsibilities are called for in the Higher Education Roundtable report.

In regard to the current higher education funding model, Mr. Isaak said the North Dakota University System, in collaboration with the Office of Management and Budget and the Legislative Council, developed and adopted several funding formulas in the 1960s which were later refined through a legislative study during the 1983-85 biennium. Mr. Isaak said there are two major weaknesses with the funding formulas.

1. The formulas are in large part directly or indirectly driven by the enrollment of traditional degree-seeking students. Nontraditional enrollments are not reported in the same way as traditional enrollments; thus, the campuses get little recognition for the total number of students served.
2. The formulas provide minimal recognition of the high-fixed cost of operations at some of the campuses.

Mr. Isaak said incremental budgeting which funds inflationary increases and new initiatives in addition to current-based funding levels has been the primary basis for North Dakota University System budget requests in the three most recent bienniums.

Mr. Isaak said a new funding model could be composed of the following three primary components:

1. Base-funding - Funding used to sustain the academic mission of an institution whereby the level is based on external benchmark comparisons.
2. Initiative-funding - Funds allocated by the Legislative Assembly and/or State Board of Higher Education to support the priorities of the Higher Education Roundtable.
3. Asset-funding - Funding for the renewal and replacement of physical plant assets.

Mr. Isaak said base-funding could be provided as a lump sum appropriation to the campuses and/or State Board of Higher Education. The board and campuses would then have the flexibility to manage the resources in a way that is consistent with the campuses' academic missions. The state's role would be to then provide regular base-funding increases to move toward a peer group target or other predetermined increase. Mr. Isaak also said that all income, including tuition, would no longer be specifically appropriated in the "estimated income" or "local funds" line item. However, for funding purposes there would have to be a reasonable base level of tuition collections. Campuses would be expected to generate so much in tuition revenues to help cover operating costs, and any additional tuition generated would remain with the campus.

Mr. Isaak said the keys to successful implementation of a new funding model include making the implementation a collaborative effort between the State Board of Higher Education, the North Dakota University System, campus leaders, and legislative and executive branches; ensuring that additional new state resources be allocated to base-funding instead of reallocating existing resources between campuses; and establishing adequate data and information systems to access and monitor information.

In response to a question from Senator St. Aubyn regarding the two special funding pools requested which will be for the 2001-03 biennium, Mr. Isaak said the pools could be considered initiative-funding.

In response to a question from Senator St. Aubyn regarding what aspects of the new funding model could be implemented for the next biennium, Mr. Isaak said it may be possible to implement initiative-funding and asset-funding. He also said it is possible that the identification of peer institutions which would be used in determining base-funding could be completed before the end of the calendar year.

In response to a question from Representative Johnson regarding asset-funding, Senator Wardner said assets are looked at as an obligation of the state; therefore, the Legislative Assembly believes it is their responsibility to specifically provide funding for maintenance of institution buildings.

In response to a question from Representative Glassheim regarding how research dollars and economic development dollars would fit into the funding model, Mr. Isaak said those dollars could be part of the base-funding or initiative-funding.

Chairman Nething called on Mr. Rod A. Backman, Director, Office of Management and Budget, for comments regarding the Higher Education Roundtable recommendations and accountability measures. Mr. Backman expressed his appreciation toward the committee for their work on the report. He said many of the recommendations have been issues discussed by the Office of Management and Budget when preparing the executive budget, and the Office of Management and Budget will continue to follow actions associated with the report during the upcoming budget process. He said an important issue is finding the balance between flexibility and accountability.

Chairman Nething called on Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, who provided information regarding the Higher Education Roundtable recommendations concerning information technology infrastructure. A copy of the information is on file in the Legislative Council office.

Regarding the status of the statewide area network infrastructure roll out, Mr. Wolfe said bids are due in the Information Technology Department by June 2. The Information Technology Department has set up three teams to evaluate bids. He anticipates awarding bids for the statewide area network project at the end of June and having a contract in place by the end of July.

In addition, Mr. Wolfe said the provider of the statewide area network backbone infrastructure will cover the cost of implementing the infrastructure, and users will be required to pay a monthly fee. However, there will be costs associated with upgrading equipment and circuits to enable use of the statewide area network. Mr. Wolfe estimates these associated costs to be approximately \$3 million for the current biennium. He also said committees have been set up to develop budgets for costs associated with the statewide area network and to develop a coordinated budget approach in addressing technology issues.

Chairman Nething requested Mr. Wolfe keep the committee updated on the status of the statewide area network project and asked the Legislative Council staff to include Mr. Wolfe on the August 2000 committee meeting agenda.

Chairman Nething called on Mr. Melvin Olson, Director, State Board for Vocational and Technical Education, to comment on the Higher Education Roundtable recommendations and accountability measures. Mr. Olson thanked the committee for involving him in the process by allowing him to be a roundtable member. He said the roundtable did a good job of identifying how the North Dakota University System could adapt to the needs of today and the needs of the future. He also said the North Dakota University System needs to focus on being "nimble" by looking at what needs to be done to get a task completed, accomplishing the task, and moving on to the next task.

Chairman Nething called on Mr. Greg Gallagher, Education Improvement Team Leader, Department of Public Instruction, to comment on the Higher Education Roundtable recommendations and accountability measures. He said the Higher Education Roundtable report is right on track where education is going for the future. He said the fundamental goal should be to create a seamless kindergarten through grade 12 and higher education system where the importance is shifted from the level of education to the content of education.

Mr. Gallagher said he has the following recommendations for the committee:

1. Be clear about the fundamental principals of education.
2. Completely redefine college preparation courses.
3. Coordinate professional development between higher education and kindergarten through grade 12.
4. Continue roundtable discussions.

Chairman Nething called on Mr. Kevin Cramer, Director, Department of Economic Development and Finance, who made comments regarding the Higher Education Roundtable recommendations and accountability measures. Mr. Cramer said he appreciated the comments in the report relating to encouraging and rewarding creative thinking. He said it is important for the North Dakota University System to be fast and nimble, but he cautioned being fast and nimble also means doing away with programs that are no longer used along with creating new ones.

Chairman Nething called on Mr. Robert R. Peterson, State Auditor, who provided testimony regarding the Higher Education Roundtable recommendations and accountability measures. A copy of Mr. Peterson's written testimony is on file in the Legislative Council office.

Mr. Peterson said the legislative branch, executive branch, and University System need to further clarify expectations and then target accountability measures to monitor success in meeting those expectations. He suggested the North Dakota University System look at what other states have accomplished using performance measurements for their university systems and which of those measures could be used by North Dakota's University System.

In response to the recommendation that the Legislative Assembly and the State Auditor's office revise audit processes to ensure consistency with the principles identified in the roundtable, Mr. Peterson said the State Auditor's office must audit in accordance with the government audit standards to give an opinion on the comprehensive annual financial report audit.

In response to the recommendation that campuses must service as a source of spin-off companies, Mr. Peterson said emphasizing spin-off companies be co-owned or operated by college and university faculty and encouraging faculty to use state resources

to build their own businesses has an obvious built-in conflict of interest.

Mr. Peterson also said the state must consider the concerns of private industry along with the needs of the state when contemplating the possibility of creating a "public utility" for the state's technology infrastructure.

The committee recessed at 12:00 noon for lunch and reconvened at 12:45 p.m.

Chairman Nething called on Mr. Fraine Zeitler, Director, North Dakota Workforce Development Council, to provide comments regarding the Higher Education Roundtable recommendations and accountability measures. A copy of Mr. Zeitler's written testimony is on file in the Legislative Council office.

Mr. Zeitler applauded the committee for their roundtable approach of looking at the North Dakota University System at a system level instead of a line item level. He said from a policy perspective it is important for the Legislative Assembly and the University System to come to a clear agreement on the expectations of the North Dakota University System. He also said one of the top priorities for the committee should be to assign the responsibility for the roundtable recommendation implementation and hold those responsible accountable for implementation.

Chairman Nething called on Ms. Jennifer Gladden, Executive Director, Job Service North Dakota, to provide comments regarding the Higher Education Roundtable recommendations and accountability measures. Ms. Gladden commended the committee on their efforts in studying higher education. She said the vision of the report calls for a culture change, which is a big task. She also said the vision must be ongoing and reviewed to keep on track with the future, and it is critical to remember that partnerships will help make the implementation successful.

Chairman Nething called on Mr. Jess Cooper, Vice President of Governmental Affairs, Greater North Dakota Association, to provide comments regarding the Higher Education Roundtable recommendations and accountability measures. A copy of his written testimony is on file in the Legislative Council office.

Mr. Cooper said the Greater North Dakota Association supports the work, the cornerstones, the accountability measures, the findings, and the recommendations of the Higher Education Roundtable. He said the report provides the North Dakota University System with flexibility needed to address the state's future and the responsibility and authority to provide that flexibility. He also said the legislative actions necessary can only be successful through the active support of everyone involved.

In response to a question from Representative Glassheim regarding the Vision 2000 four-part economy, Mr. Cooper said at the time of the development of the four-part economy, there was no knowledge of the importance of information technology. He stated the adding of such a concept will be considered.

The Legislative Council staff presented a memorandum entitled *Higher Education Roundtable Recommendations Requiring Legislative Action and Possible Committee Action*. The memorandum contains recommendations from the Higher Education Roundtable Task Force reports which may require legislative action. The recommendations were grouped into six categories--funding issues, information technology infrastructure, reporting and audit issues, research, sustaining the vision, and work force training. The recommendations were then summarized and consolidated to remove duplicate recommendations. For each recommendation, a possible committee action was stated. In addition to the stated action, the committee could support any of the recommendations in its final report.

In response to a question from Senator Nething, Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, said the Legislative Council memorandum encompasses most of the higher education statutory changes noted in the North Dakota University System testimony. Mr. Smith said the Legislative Council memorandum does not cover statutory changes pertaining to patents, Budget Section building and improvements guidelines, fiscal irregularities, institutional missions, and budget request simplification.

It was moved by Senator Grindberg, seconded by Representative Glassheim, and carried on a roll call vote that the committee accept for filing and future committee consideration the Higher Education Roundtable report. Senators Nething, Grindberg, Lindaas, Solberg, St. Aubyn, Tomac, and Wardner and Representatives Aarsvold, Dalrymple, Glassheim, Johnson, Koppang, Sveen, and Wentz voted "aye." No negative votes were cast.

Chairman Nething requested the Legislative Council staff prepare bill drafts for all statutory amendments mentioned in the North Dakota University System testimony and the Legislative Council memorandum. Chairman Nething also requested the Legislative Council staff arrange for and prepare any additional information stated as possible committee action in the Legislative Council memorandum, including a Legislative Council memorandum regarding issues relating to implementation of "lump sum" appropriations and removing all income from the appropriation process.

Chairman Nething said he plans to ask Senator Gary J. Nelson, Chairman of the Legislative Council, for the authorization for a subcommittee to develop financial and performance accountability measures. Chairman Nething said the membership of the subcommittee has not yet been finalized, but the subcommittee will consist of approximately five members of the Higher Education Committee including himself as chairman.

Senator Nething said in the response to the recommendation to schedule a joint session of the Legislative Assembly during each legislative session at which the Board of Higher Education can provide a

status report on higher education in North Dakota, the Legislative Management Committee is considering allowing the North Dakota University System to present a status report during the December 2000 Legislative Assembly organizational session.

Senator Grindberg asked if it would be possible for the committee to receive information from Job Service North Dakota about what other states are doing to fund work force training. Chairman Nething requested the Legislative Council staff arrange for a presentation of such information from Job Service at the next meeting.

The Legislative Council staff presented a memorandum entitled *History of Legislative Review and Changes to the Appropriation of Special Funds*. This memorandum provided a history of legislative review and changes to the appropriation of special funds as background information for the Higher Education Committee's study of higher education funding.

The memorandum discussed appropriation changes since 1965 including:

1. The appropriation for the first time of federal funds received by the Social Service Board and the Department of Public Instruction in the 1975-77 biennium.
2. The appropriation for the first time of funds from the state tuition fund in the 1979-81 biennium.
3. The removal of the agricultural commodity groups from the appropriation process in the 1993-95 biennium.
4. The appropriation for the first time of higher education local funds in the 1997-99 biennium.

STUDY OF THE DIVISION OF INDEPENDENT STUDY

Mr. Neil Howe, Director, Division of Independent Study, Fargo, provided testimony relating to a consultant's operational review of the Division of Independent Study, a copy of which is on file in the Legislative Council office. Mr. Howe said on September 1, 1999, Mr. Richard Foster was selected to conduct an operational review of the division. During September and October 1999, Mr. Foster reviewed all aspects of the business operations including the areas of administrative offices, business office, production center, support services, and education staff.

Mr. Howe said the following recommendations resulted from the operational review:

1. Position the division as an education cooperative to support the mission of the Department of Public Instruction.
2. Reorganize the business office to support management and control the business and technical requirements of the operation.
3. Define the organization to include the following divisions--human resource, technology services, support services, and accounting.

4. Reassign the responsibilities of the Learning Resource Center into the mainstream operation of business and education organization.
5. Focus delivery of educational services on the primary goal of serving the students of North Dakota.
6. Structure prices to target the reduction of cost for educational services to North Dakota students.

Mr. Howe said the primary study conclusion from the operational review is that North Dakota education programs must increase their focus on serving the educational requirements of the students of North Dakota. To do this, the state must recognize the significant contribution the Division of Independent Study could make to the students of North Dakota if their educational capabilities were used more effectively and if the division was more organizationally recognized and placed in the mainstream of the educational process.

Mr. Howe said since October 1999, the division and its staff have addressed many of the recommendations cited in the consultant's review. Mr. Howe said the division's business office operation has been reorganized for efficiency and job responsibility and accounting practices, and the division has installed a general ledger accounting package that provides monthly revenue/expenditure reports to the director. The division's Learning Resource Center has discontinued its general rental of 16 millimeter film and videotapes. The remaining 2.5 FTE positions have been reassigned to the Division of Independent Study center operation. Also, the division received a \$25,000 National Geographic grant to develop two semesters of online advanced placement geography, and the division is currently partnering with the Fargo Public Schools to develop eight semesters of online courses in a number of areas. Mr. Howe said he believes the future of the Division of Independent Study is bright, and it is time to concentrate on how the division can better serve the citizens of the state.

In response to a question from Senator Solberg regarding any effect the statewide network infrastructure may have on the division, Mr. Howe said he is not

aware of many of the details surrounding the statewide network infrastructure or how this may affect the division's activity, but he stressed the mission of the division is supplemental. The division's services are used where needed, such as instances where schools may not have an adequate number of teachers.

In response to a question from Representative Koppang regarding the amount of activity from out-of-state participants, Mr. Howe stated that final numbers for the 1999-2000 school year are not available, but interim numbers have been consistent with the past in that out-of-state enrollments is approximately 84 percent of total enrollments.

In response to a question from Senator Nething, Mr. Smith said the study plan included reviewing the role, the mission, the operation, and the privatization of the Division of Independent Study. Mr. Smith also said the Division of Independent Study will be visited during the committee's budget tour in September at which time the division can provide information regarding the 2001-03 budget request.

Chairman Nething said the committee can review the division's 2001-03 budget request during the budget tour and conclude its study at that time.

Chairman Nething said at a recent meeting of the Western Interstate Commission for Higher Education, he learned that the committee's study of higher education has caught the interest of other states.

The committee adjourned at 2:35 p.m. subject to the call of the chair.

Roxanne Hobza
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1