

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

HIGHER EDUCATION COMMITTEE

Thursday, August 10, 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, Ray Holmberg, Ed Kringstad, Elroy N. Lindaas, Ken Solberg, Rod St. Aubyn, Rich Wardner; Representatives Ole Aarsvold, Al Carlson, Jack Dalrymple, Eliot Glassheim, Nancy Johnson, Myron Koppang, Ed Lloyd, Andrew G. Maragos, Bob Stefanowicz, Gerald O. Sveen, Janet Wentz

Members absent: Senators Tim Flakoll, Steve Tomac

Others present: Governor Edward T. Schafer
See attached appendix

It was moved by Senator Solberg, seconded by Senator Lindaas, and carried on a voice vote that the minutes of the May 25, 2000, meeting be approved as distributed.

JOINT MEETING WITH THE GOVERNOR

Chairman Nething welcomed Governor Edward T. Schafer. Chairman Nething said Governor Schafer is joining the committee to receive a progress report from representatives of the State Board of Higher Education regarding the North Dakota University System's six-year plan pursuant to North Dakota Century Code (NDCC) Section 15-10-14.2.

Mr. Larry Isaak, Chancellor, North Dakota University System, presented a report entitled *North Dakota University System Strategic Plan (1998-2004) 1999 Progress Report*. A copy of the report is on file in the Legislative Council office. Mr. Isaak said the report provides information regarding University System and individual campus successes toward the implementation of the goals specifically identified within the North Dakota University System's strategic plan. He said the seven initial goals identified within the North Dakota University System's strategic plan have been expanded into 23 University System and 313 individual campus strategies. He said University System and individual campus strategies include specific measurements, indicators, and timelines and are reviewed and approved by the State Board of Higher Education.

Mr. Isaak said the progress report contains examples of University System strategies and detailed information on individual campuses' strategies and accomplishments. He said in regard to the education excellence goal, a University System strategy is to

increase faculty and staff salaries by a total of five percent from internal reallocation by the year 2004. He said to date the University System has reallocated approximately \$10 million for salaries and wages, and the average salary increase for faculty and staff during the 1999-2000 academic year ranged from 2.9 percent to 6 percent.

Mr. Isaak said in regard to the technology and access goal, 47 programs are currently available through distance education, and 138 on-line courses have been developed. He said in regard to the leadership and research goal, one of the objectives of the State Board of Higher Education is to complete a review of all research activities being conducted throughout the University System. He said in regard to the learning environment goal, all campuses have engaged in an extensive process to update their facility master plans.

In response to a question from Governor Schafer regarding potential conflicts between individual campus missions and goals and the North Dakota University System's strategic plan, Mr. Isaak said individual campus missions and goals are continuously reviewed to determine if they correspond with the North Dakota University System's strategic plan. For example, he said, the State Board of Higher Education has reviewed the North Dakota State University's goal to achieve national research institution status according to Carnegie classifications and determined that the goal corresponds with the North Dakota University System's strategic plan.

In response to a question from Senator Nething, Mr. Isaak said even though the North Dakota University System refers to North Dakota State University and the University of North Dakota as research institutions, the institutions are classified as doctoral institutions according to Carnegie classifications. He said in order to be classified as a research institution according to Carnegie classifications, an institution needs to have 50 doctoral graduates each year and offer 15 doctoral degrees. He said if North Dakota State University was recognized as a research institution according to Carnegie classifications, the university would be able to attract additional federal research dollars.

In response to a question from Senator Solberg regarding the funding necessary for North Dakota State University to achieve national research institution status, Mr. Isaak said the university has obtained

a majority of the funding necessary through internal reallocation. He also said the State Board of Higher Education does not permit institutions to reallocate funds appropriated for capital improvements and deferred maintenance.

In response to a question from Representative Aarsvold regarding campus investment strategies discussed at the Higher Education Committee Financial Accountability Measurements Subcommittee meeting, Mr. William B. Isaacson, President, State Board of Higher Education, said the invest and grow, maintain, harvest, and exit investment strategies which he referred to relate to programs and not higher education institutions.

In response to a question from Representative Lloyd regarding North Dakota State University's goal of achieving national research institution status, Mr. Isaacson said if the university was recognized nationally as a research institution, the university would attract additional research dollars and high-quality faculty.

Mr. Eddie Dunn, Vice Chancellor for Strategic Planning, North Dakota University System, presented a report entitled *A Comparison of the Recommendations of the Roundtable with the NDUS Strategic Plan (1998-2004)*, a copy of which is on file in the Legislative Council office. Mr. Dunn said the report details how the North Dakota University System's strategic plan and the Higher Education Roundtable report compare. He said one of the recommendations from the Higher Education Roundtable report was for the State Board of Higher Education to review and refine the North Dakota University System's current strategic plan to incorporate recommendations from the Higher Education Roundtable report.

Mr. Dunn said all of the major components which comprise the seven goals of the North Dakota University System's strategic plan goals are covered within one or more of the six cornerstones in the Higher Education Roundtable report. He said in comparing the recommendations from the Higher Education Roundtable report with the strategies of the North Dakota University System's strategic plan, only 3 of the 39 University System strategies from the strategic plan were not covered by at least one of the recommendations in the Higher Education Roundtable report. Also, only 7 of the 34 individual campus strategies detailed in the North Dakota University System's strategic plan were not covered by one or more of the recommendations in the Higher Education Roundtable report. He said the most significant difference between the North Dakota University System's strategic plan and the Higher Education Roundtable report is the difference of importance placed upon accountability. He said accountability is included as a major strategy in the North Dakota University System's strategic plan, but the Higher Education Roundtable report identified a higher level of accountability by including specific accountability measurements and related data for each cornerstone.

He also said if the State Board of Higher Education were to adopt the six cornerstones from the Higher Education Roundtable report as goals for a new strategic plan, the conversion of the cornerstone statements to goal statements would be relatively easy.

Chairman Nething called on Mr. Isaacson for comments regarding the North Dakota University System's strategic plan and the Higher Education Roundtable report. Mr. Isaacson said the State Board of Higher Education believes the Higher Education Roundtable report embodies the vision of the North Dakota University System for the 21st century and endorses the report recommendations. He said the State Board of Higher Education has set nine objectives to accomplish within the next year which relate directly to the Higher Education Roundtable report, with one of the objectives being to combine the North Dakota University System's strategic plan and the Higher Education Roundtable report.

HIGHER EDUCATION FUNDING STUDY

Chairman Nething said the Higher Education Committee Financial Accountability Measurements Subcommittee met in July 2000 to develop financial accountability measurements for the North Dakota University System. He said the following entities were represented in the subcommittee:

- Higher Education Committee - Representatives Ole Aarsvold and Al Carlson; Senators David E. Nething, Ken Solberg, and Steve Tomac.
- Legislative Council - Representative Francis J. Wald and Senator Larry J. Robinson.
- Higher education - Mr. John Korsmo, State Board of Higher Education; Dr. Donna Thigpen, President, Bismarck State College; Dr. Gary Hagen, Vice President for Academic Affairs, Mayville State University; and Dr. John Ettlting, Vice President for Academic Affairs, University of North Dakota.
- Private sector - Mr. Bruce Furness, Mayor, Fargo.
- Executive branch - Mr. Bill Goetz, Chief of Staff, Governor's office; Mr. Robert R. Peterson, State Auditor; and Mr. Rod A. Backman, Director, Office of Management and Budget.

Chairman Nething said the subcommittee received two memorandums prepared by the Legislative Council staff to assist it in completing its responsibility--*Financial Accountability Measurement Practices in Other States and Proposed Financial Accountability Measurements for the North Dakota University System*.

The Legislative Council staff presented a memorandum entitled *Higher Education Financial Accountability Measurements*. The memorandum is a summary of the financial accountability measurements for the North Dakota University System as

recommended by the Financial Accountability Measurements Subcommittee. The memorandum lists expectations or performance standards for the North Dakota University System and identifies corresponding performance indicators or associated measurements. The performance indicators would be reported on annually by the North Dakota University System at the University System level. The State Board of Higher Education would be responsible for expanding and refining the measurements where appropriate to evaluate individual institutions.

In response to a question from Senator St. Aubyn regarding financial ratio definitions, Mr. Isaak said many of the amounts used in the financial ratios are taken directly from the University System's financial statements. He also said the financial statements are consistent with other higher education institutions so the numbers should be comparable from institution to institution.

In response to a question from Senator St. Aubyn regarding the term "material" used in the financial and statutory compliance expectations and performance indicators, Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, said the term "material" is used in the funding and rewards cornerstone recommendations in the Higher Education Roundtable report. He also said the State Auditor's office would determine what is material as it conducts audits.

In response to a comment from Representative Glassheim regarding the research and development expectations, Mr. Smith said the phrase "focus research and development on economic and social needs" was contained in the education excellence cornerstone recommendations in the Higher Education Roundtable report.

Representative Glassheim said the phrase may be interpreted to limit research and development projects to only those projects which focus on North Dakota economic and social needs.

Senator Solberg said he believed it was not the intention of the Education Excellence Task Force to limit research and development projects to those projects which focus on North Dakota economic and social needs but to require institutions to review how research and development projects could benefit the citizens of North Dakota.

Chairman Nething called on Mr. Isaak for comments regarding the higher education financial accountability measurements. Mr. Isaak said the subcommittee did a good job of developing measurements which answer basic questions concerning higher education and should provide meaningful information to members of the Legislative Assembly. He said the accountability measurements should be evaluated periodically to determine if they remain relevant and appropriate or if they should be modified. He said one of the recommendations of the Higher Education Roundtable report was that the agreed-upon set of accountability measurements would

replace all regular and ad hoc fiscal reports submitted to the Legislative Assembly and executive branch.

The Legislative Council staff presented a memorandum entitled *Nonfinancial Higher Education Accountability Measurements*. The memorandum is a summary of accountability measurements from the Higher Education Roundtable report which are not directly related to financial expectations. The memorandum lists general expectations or performance standards for the North Dakota University System to be achieved by implementing the recommendations of the Higher Education Roundtable report and identifies corresponding performance indicators or associated measurements. As with the financial accountability measurements, performance indicators for the nonfinancial accountability measurements would be reported on annually by the North Dakota University System at the University System level, and the State Board of Higher Education would be responsible for expanding and refining the accountability measurements where appropriate to evaluate individual institutions.

In response to a question from Senator Solberg regarding the accessible system cornerstone performance indicator which refers to accessing educational programs within a 45-minute drive, Ms. Laura Glatt, Vice Chancellor for Administrative Affairs, North Dakota University System, said the Accessible System Task Force believed residents of North Dakota, especially those without Internet access, should have access in a reasonable amount of time to higher education programs. She said the task force believed it was important for the North Dakota University System to have individuals available across the state to provide student services such as career counseling.

In response to a question from Representative Stefonowicz regarding the education excellence cornerstone performance indicators, Mr. Isaak said the performance indicators listed in the memorandum and the related data items detailed in the Higher Education Roundtable report should provide adequate information regarding campuses' educational performance.

It was moved by Representative Lloyd, seconded by Representative Wentz, and carried on a roll call vote that the committee approve the financial and nonfinancial accountability measurements for the North Dakota University System. Senators Nething, Grindberg, Holmberg, Kringstad, Lindaas, Solberg, St. Aubyn, and Wardner and Representatives Aarsvold, Carlson, Glassheim, Johnson, Koppang, Lloyd, Stefonowicz, Sveen, and Wentz voted "aye." No negative votes were cast.

Chairman Nething called on Mr. John D. Olsrud, Director, Legislative Council, who presented a memorandum entitled *Constitutional Issues Related to Proposals Under Consideration by the Higher Education Committee*. Mr. Olsrud said Section 6 of Article VIII of the Constitution of North Dakota provides that

the State Board of Higher Education has "full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions." He also said Section 6 of Article VIII of the Constitution further provides that "the said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution."

Mr. Olsrud said there have been no judicial decisions concerning the committee's proposal to provide a lump sum appropriation to the State Board of Higher Education rather than individual institution appropriations. However, legislation passed in 1965 which attempted to authorize the construction of buildings on college campuses and leave it to the discretion of the State Board of Higher Education to determine which facilities and at which locations the buildings were to be constructed was challenged and taken to the North Dakota Supreme Court. He said the Supreme Court decision stated that the State Board of Higher Education is not vested with legislative powers, and the Legislative Assembly may not delegate legislative powers to the State Board of Higher Education. The Supreme Court decision also stated that the Legislative Assembly may not appropriate a lump sum to an entity without providing guidelines for the use of funds.

Regarding the committee's proposal to remove institution income in addition to the state general fund appropriation from the appropriation process or "continuing appropriations," Mr. Olsrud said Section 6(6)(e) of Article VIII of the Constitution of North Dakota provides that the State Board of Higher Education has control of the expenditure of funds belonging to and allocated to institutions and "also those appropriated by the legislature." He said although continuing appropriations have not been favored, a 1988 Supreme Court decision held that continuing appropriations are a "valid appropriation first made by the legislature" and is "continuing" only if future legislative assemblies choose not to repeal or modify it.

The committee recessed at 12:00 noon and reconvened at 1:05 p.m.

Chairman Nething called on Mr. Curtis L. Wolfe, Chief Information Officer, Information Technology Department, to provide comments regarding the status of the statewide information technology network. A copy of his testimony, including schedules of infrastructure implementation, is on file in the Legislative Council office. Mr. Wolfe said the statewide information technology network request for proposals (RFP) is comprised of four parts--transport and local access, customer premises equipment, Internet

access, and video bridging and scheduling. He said the contract for the transportation and local access portion of the RFP, which provides a minimum of ATM T1 lines to 552 physical locations in 194 cities, has been awarded to Dakota Carrier Network. He said the implementation of this portion has been separated into two phases. The first phase, which should be completed by the end of 2000, will involve 218 current customer base locations, and the second phase will involve 304 kindergarten through grade 12 locations. He said all locations will be charged a monthly fee of \$484 for access to the statewide information technology network.

Mr. Wolfe said the contract for the customer premises equipment portion of the RFP was awarded to Corporate Technologies, and the contract for the Internet portion of the RFP was awarded to Sprint. He said the three finalists for the video equipment portion of the RFP are Norstan, U S West, and Corporate Technologies.

Mr. Wolfe said the Governor and the director of the Office of Management and Budget have committed to initial "rollout" funding of \$3 million, which is primarily from current agencies' budgets. He said a committee has been established for developing an integrated budget for the 2001-03 biennium for the remaining portion of the network rollout.

Chairman Nething requested Mr. Wolfe keep the committee updated on the status of the statewide information technology network and asked the Legislative Council staff to include Mr. Wolfe on the next committee meeting agenda.

Mr. Isaak presented a bill draft which would implement recommendations from the Higher Education Roundtable report. A copy of the bill draft is on file in the Legislative Council office.

Mr. Isaak provided the following bill draft summary:

- Section 1 of the bill draft amends NDCC Section 15-10-12 to provide higher education institutions a continuing appropriation for all local funds including tuition. The bill draft also amends the section to require the appropriation for the State Board of Higher Education and its institutions to include a base funding component in the form of a lump sum general fund appropriation to the State Board of Higher Education or institutions, an incentive funding component in the form of a lump sum appropriation to the State Board of Higher Education which will allocate funds to institutions for specific strategies or incentives to promote the board's agenda, and an asset funding component for renewal and replacement of plant assets. The bill draft also amends the section to provide that any unexpended funds, including general fund appropriations to the State Board of Higher Education and institutions and funds in institution accounts, are to be carried over and available from one biennium to the next.

- Section 2 of the bill draft amends NDCC Section 15-10-12.1 to permit the State Board of Higher Education to authorize building construction or other improvements financed by gifts or donations without approval from the Legislative Assembly or the Legislative Council Budget Section if the cost does not exceed \$500,000. Currently, the statute provides that all building construction and campus improvement projects financed by gifts or donations must be authorized by the Legislative Assembly or the Legislative Council Budget Section.
 - Section 3 of the bill draft amends NDCC Section 15-10-14.2 by removing references to a North Dakota University System six-year plan and providing that the State Board of Higher Education adopt a strategic planning process and develop a strategic plan to define and prioritize North Dakota University System goals and objectives including recommendations from the Higher Education Roundtable report.
 - Section 4 of the bill draft amends NDCC Section 15-10-17 by removing “unnecessary” references to constitutional powers of the State Board of Higher Education. The section also adds a new subsection delegating authority to the State Board of Higher Education to adopt rules relating to research and development.
 - Section 5 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 6 of the bill draft amends NDCC Section 15-11-32 by removing language concerning operational details relating to the Child Welfare Research Bureau.
 - Section 7 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 of the center be an individual from the Department of Neuroscience.
 - Section 8 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 9 of the bill draft amends NDCC Section 15-12-22 by removing language concerning operational details relating to the economic feasibility institute.
 - Section 10 of the bill draft amends NDCC Section 54-14-03.1 by exempting the North Dakota University System from a reporting requirement concerning bonuses and temporary salary adjustments.
 - Section 11 of the bill draft creates a new section to the North Dakota Century Code that recognizes the North Dakota University System as a unified system of higher education. The section also creates a new statute that exempts the State Board of Higher Education from being subject to budget request form requirements included in NDCC Chapter 54-44.1 and allows them to submit budget requests in the form and manner consistent with recommendations contained in the Higher Education Roundtable report and approved by the Legislative Council.
 - Section 12 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 12 also repeals NDCC Chapter 15-62.3, relating to the tuition assistance grant program, and Chapter 47-28, relating to patents.
- In response to a question from Senator Nething regarding Section 12 of the bill draft, Mr. Isaak said the section is necessary to remove outdated or unnecessary statutes.

In response to a question from Senator St. Aubyn regarding Section 2 of the bill draft, Mr. Olsrud said according to the Constitution of North Dakota it appears as though the State Board of Higher Education has control over funds allocated or given to an institution and funds appropriated to an institution so legislative delegation of authority to spend moneys less than \$500,000 which were donated or gifted without Legislative Council Budget Section approval would probably not be considered unconstitutional.

In response to a question from Representative Stefonowicz regarding Section 4 of the bill draft, Mr. Pat Seaworth, General Counsel, North Dakota University System, said the proposed amendment to NDCC Section 14-15-17 would allow the State Board of Higher Education to go into executive session to appoint or remove the chancellor of the North Dakota University System.

Chairman Nething requested the Legislative Council staff to make the following changes to the bill draft prepared by the North Dakota University System:

- Create three separate bill drafts for Sections 1, 2, and 10.
- Combine Sections 3, 4, and 11 into one bill draft.
- Combine Sections 5, 6, 7, 8, and 9 into one bill draft.
- Review Section 12 of the bill draft to create separate bill drafts for appropriate North Dakota Century Code sections.

Mr. Isaak also provided testimony regarding the North Dakota University System's need to employ and retain high-quality faculty. A copy of his testimony is on file in the Legislative Council office. Mr. Isaak said the Higher Education Roundtable report identifies the importance of an educated work force to develop a new economy in North Dakota. He said retaining and recruiting top-notch faculty and staff is important to achieving success in developing a new economy and achieving the goals of the Higher Education Roundtable.

Dr. Thigpen said Bismarck State College is finding it increasingly difficult to recruit and retain full-time faculty. She said not only is it difficult to retain faculty because of low salaries, but it is also difficult to hire high-quality faculty because the size of applicant pools has decreased significantly in the past three years.

Mr. Isaak outlined the North Dakota University System's plans for developing a financing plan and resource allocation model. He said one of the objectives set by the State Board of Higher Education for the next year is to develop a financing plan and resource allocation model. He said in regard to a long-term financing plan, the State Board of Higher Education has hired a consultant, Mr. Dennis Jones, President, National Center for Higher Education Management Systems, Boulder, Colorado, to provide

information regarding financing plans in other states. He said in regard to a resource allocation model, the State Board of Higher Education has set up committees to begin identifying peer institutions, and the State Board of Higher Education hopes to have a draft resource allocation model available by the beginning of the 2001 Legislative Assembly.

Senator Grindberg provided comments regarding economic development and higher education. He said a fundamental area which needs to be addressed is the issue of the state's declining population. He said this issue is not only an issue in North Dakota but also in the Midwest region. He also said at the recent Council of State Governments Midwestern Legislative Conference in Minneapolis, it was stressed that states must invest in education, especially vocational education and research and technology.

Chairman Nething called on Ms. Jennifer Gladden, Executive Director, Job Service North Dakota, who provided information regarding other states' methods of funding work force training. A copy of the information is on file in the Legislative Council office. Ms. Gladden said states are developing a variety of funding strategies for job training programs. She said according to a study conducted by the National Governors Association's Center for Best Practices, 45 job training programs are funded with general fund appropriations, 10 job training programs are based on employment insurance, and 11 job training programs are funded using other methods. She said most states report spending the largest portion of their employer-focused job training funds on reimbursement for training costs. She also said states are experiencing difficulty reaching smaller firms as their programs expand, which is a concern because smaller firms are a major source of jobs for entry-level workers.

Chairman Nething informed the committee of the budget tour of higher education institutions scheduled for Monday-Wednesday, September 25-27, 2000. He said the date for the final committee meeting is tentatively set for October 3, 2000.

The committee adjourned at 3:05 p.m. subject to the call of the chair.

Roxanne Hobza
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1