

2009 SENATE EDUCATION

SB 2079

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2079

Senate Education Committee

Check here for Conference Committee

Hearing Date: January 12, 2009

Recorder Job Number: 6789

Committee Clerk Signature

Minutes:

Chairman Freborg opened the meeting, attendance was taken and all were present.

Bruce Levi, Executive Director of the North Dakota Medical Association, testified and handed out testimony (see attachment #1)

Senator Lee asked where potential students would get the necessary scholarship.

Joshua Winn, Sr. Exec. V.P of Health Affairs @ UND and Exec. Dean @ NDSMHS stated that there hasn't been an applicant for the scholarship in over 25 years.

Senator Flakoll asked for discussion time.

Senator Flakoll introduced the amendment to SB 2079

Senator Flakoll moved to accept SB 2079 as amended and **Senator G. Lee** seconded the motion.

Committee voted 5-0 to pass SB 2079 as amended.

Chairman Freborg closed discussion on SB 2079

PROPOSED AMENDMENT TO SENATE BILL NO. 2079

Page 1, line 11, after "The" insert "primary"

Page 1, line 12, after "to" insert "educate physicians and other health professionals", insert an underscored period after "Dakota", and remove "through"

Page 1, line 13, remove "the education of physicians and other health professionals and through" and insert immediately thereafter "Other purposes include",

Page 1, line 14, after "knowledge" replace ",thereby improving the health of the public." with "that benefits the people of this state and enhances the quality of their lives."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2079

Page 1, line 12, after “is” insert “to educate physicians and other health professionals” and remove “through”

Page 1, line 13, replace “the education of physicians and other health professionals and through” with “, and other purposes that include”

Page 1, line 14, replace “,thereby improving the health of the public,” with “that benefits and meets the needs of North Dakota and the public”

The purpose of the university of North Dakota school of medicine and health sciences is to educate physicians and other health professionals to enhance the quality of life in North Dakota, and includes the discovery of knowledge that benefits and meets the needs of North Dakota and the public.

SB 2079

Date: 1-12-09
Roll Call Vote #: 1

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.**

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken (Pass Amendment)

Motion Made By Flakoll Seconded By G. Lee

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	✓	
Senator Gary Lee	✓		Senator Bakke	✓	
Senator Flakoll	✓				

Total (Yes) 5 No 0

Absent N/A

Floor Assignment _____

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

SB 2079

Date: 1-12-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Flakoll Seconded By G. Lee

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	✓	
Senator Gary Lee	✓		Senator Bakke	✓	
Senator Flakoll	✓				

Total (Yes) 5 No 0

Absent N/A

Floor Assignment Bakke

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

REPORT OF STANDING COMMITTEE

SB 2079: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2079 was placed on the Sixth order on the calendar.

Page 1, line 11, after "The" insert "primary"

Page 1, line 12, after "to" insert "educate physicians and other health professionals and to" and replace "through" with an underscored period

Page 1, line 13, replace "the education of physicians and other health professionals and through" with "Other purposes include"

Page 1, line 14, replace ", thereby improving the health of the public" with "that benefits the people of this state and enhances the quality of their lives"

Renumber accordingly

2009 HOUSE EDUCATION

SB 2079

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2079

House Education Committee

Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9905

Committee Clerk Signature

Carmen Hart

Minutes:

Bruce Levi, Executive Director, ND Medical Association, appeared. (See Attachment 1.)

Chairman Kelsch: What you are thinking is that the report that would need to be sent to University of North Dakota and to Legislative Council and it would have recommendations for implementing strategies. Among those recommendations would be that it would address the health care needs of the people of the state, providing information regarding the state's healthcare workforce needs, recruitment and retention of physicians and other healthcare professionals, and access to healthcare. Would those be the items then that you would believe would cover the list that is currently in state law?

Bruce Levi: Yes, specific reference to the identification of the health workforce needs.

Chairman Kelsch: Workforce needs? Okay.

Rep. Mike Schatz: Does the university have any quotas of any kind for admission?

Bruce Levi: I am going to defer that question to Joshua.

Joshua Wynne, Executive Dean of UND Medical School, appeared. He also recognized the program director for the family medicine program in Minot (I did not catch the name.).

There are no official quotas per say. I believe that is unconstitutional. My understanding,

however, is that the best candidates are accepted. In years past it was a predominantly male class. Currently it averages roughly 50/50. Some years it is more males. Some years it is

more female. The most current year it is more female. Approximately 85% of the people come from the state of North Dakota. The vast majority come from North Dakota, Minnesota, or the reaching states.

Rep. Mike Schatz: Are there spots reserved for Native Americans in North Dakota?

Joshua Wynne: There are 55 positions in the class that are funded through the appropriations process situation and so forth. There are approximately six additional positions in the department this year that are soon to be a so called Indian medicine program which is a separately funded program and would require individuals to be representatives of the official tribe. They are separate. They are not part of the typical appropriations process. It is a separate program and if the funding for that were not coming from the federal government, those slots would disappear. Within the 55 seats that are open, they are open to anyone and anyone regardless of what their background could be accepted into those slots.

There was no opposition.

The hearing was closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2079

House Education Committee

Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10062

Committee Clerk Signature

Carmen Hart

Minutes:

Chairman Kelsch: In 2079 there was a little bit of a mission restatement. It looks like it fits very well into what the scope and practice should be for the university medical school. Again there were some sections that needed to be addressed regarding the name of the school of medicine and health sciences so some of it is just updates. Then, again, there is some language that has been deleted and that is because that was language that is not needed any longer regarding the psychiatry scholarships tied to state service.

Vice Chair Lisa Meier moved for a **Do Pass**. **Rep. Corey Mock** seconded the motion.

Rep. Jerry Kelsh: I had a little concern about losing a little of the rural perspective. I talked to Bruce Levi between hearings and he assured me that it is really a component of their mission to make sure that as much as possible rural communities get some doctors so I am pretty satisfied that is the case.

DO PASS. 14 YEAS, 0 NAYS. **Rep. Corey Mock** is the carrier of this bill.

Date: 3-3-09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2079

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Rep Meier Seconded By Rep. Mock

Representatives	Yes	No	Representatives	Yes	No
Chairman RaeAnn Kelsch	✓		Rep. Lyle Hanson	✓	
Vice Chairman Lisa Meier	✓		Rep. Bob Hunsakor	✓	
Rep. Brenda Heller	✓		Rep. Jerry Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Corey Mock	✓	
Rep. Karen Karls	✓		Rep. Phillip Mueller	✓	
Rep. Mike Schatz	✓		Rep. Lee Myxter	✓	
Rep. John D. Wall	✓				
Rep. David Rust	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Mock

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

REPORT OF STANDING COMMITTEE

SB 2079, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2079 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2079



Testimony in Support of Senate Bill No. 2079
Senate Education Committee
January 12, 2009

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Chairman Freborg and members of the Committee. I'm Bruce Levi and I serve as the Executive Director of the North Dakota Medical Association. I also serve in a supportive role to the Medical Center Advisory Council, which is a statutory group of representatives of several state agencies, associations, the Legislative Assembly, and the UND School of Medicine & Health Sciences (UNDSMHS) charged with advising UND administration and the various agencies and institutions represented on the Advisory Council regarding the role of the medical school in meeting the needs of the state.

SB 2079 is one of three bills introduced by the State Board of Higher Education at the request of the Medical Center Advisory Council to address recommendations resulting from a performance audit performed by the Office of the State Auditor. A copy of the pertinent portions of the performance audit report are attached. This bill updates statutes relating to the purpose of the University of North Dakota School of Medicine & Health Sciences. The Medical Center Advisory Council reviewed the performance audit recommendations and developed the bill draft which was later introduced as SB 2079 by the State Board of Higher Education.

The performance audit report noted that consultants hired to assist the State Auditor's office with the performance audit indicated that the current statutory purpose of the UNDSMHS in Section 15-52-01 "does not appear to be consistent with other medical schools across the country." The provision has remained unchanged since 1945. The audit report also asserted that two other statutes are not currently being implemented – Section 15-52-15 which requires UND to compile a list of municipalities without sufficient numbers of physicians and dentists (also addressed in SB 2077), and Section 15-52-29 which includes a 1957 requirement that the medical center "under the policies of the state board of higher education" provide or encourage means for providing for the training of psychiatrists and other personnel as may be

necessary to properly staff state institutions and agencies providing services in the field of mental health, as well as provide psychiatry scholarships conditioned upon service after receiving a scholarship and after training with state institutions and agencies.

The performance audit report recommended (Recommendation 1-1) that UNDSMHS “comply with state laws regarding the purpose and duties of the medical school or take appropriate action to modify state laws.” UNDSMHS agreed with the recommendation and responded that it would petition the Advisory Council and the State Board of Higher Education to modify these outdated laws.

The performance audit report recommended (Recommendation 1-2) that UNDSMHS “ensure their mission statement is consistent with legislative intent established in state law.” In response, UNDSMHS agreed with the recommendation but disagreed with the implication that Section 15-52-01 constitutes a mission statement, noting the Advisory Council would be petitioned to rewrite Section 15-52-01.

In response to the recommendations of the performance audit report, SB 2079 would update the statutory language relating to the UNDSMHS as follows:

Section 1 of the bill would update the purpose of UNDSMHS to recognize its broad purpose to enhance the quality of life in North Dakota through the education of physicians and other health professionals and through the discovery of knowledge, thereby improving the health of the public.

Sections 2 through 6 would change statutory references from the “state medical center” to the “university of North Dakota school of medicine and health sciences.”

Section 7 would, as provided in SB 2077, remove the outdated statutory requirement in Section 15-52-15 that UND compile a list of municipalities without sufficient numbers of physicians and dentists.

Section 8 would remove reference in Section 15-52-29 to psychiatry scholarships tied to state service, but retain the current statutory language requiring the UNDSMHS to provide or encourage means for providing for the training of psychiatrists necessary to staff state institutions and agencies.

Thank you Mr. Chairman and Committee members for the opportunity to testify on behalf of the North Dakota Medical Association, as a participant on the Medical Center Advisory Council. We urge a “Do Pass” on SB 2079.

Medical Center Advisory Council

Representative Rick Berg
Senator Robert Erbele
Senator Tim Mathern
Representative Ralph Metcalf
Grant Shaft, State Board of Higher Education
Thomas Arnold, MD Dickinson
John Baird, MD Fargo

Dave Molmen, CEO Altru Health, Chair
Terry Dwelle, MD, State Health Officer
Roger Gilbertson, MD Fargo
Terry Hoff, Trinity Health
Karen Robinson, VA Hospital, Fargo
Carol Olson, Dept. of Human Services
Shari Orser, MD Bismarck

Same handbook given to House

Issues Related to State Law

Introduction

A goal of this performance audit was to answer the following question:
"Has the School of Medicine and Health Sciences established an adequate system for monitoring operations?"

We determined the School of Medicine and Health Sciences (SMHS) has not established an adequate system for monitoring its operations. In this chapter, we identify concerns related to SMHS not complying with the legislative purpose and duties established for the school as well as other noncompliance issues related to state law. Additional areas of a lack of monitoring operations are discussed in Chapter 3.

To determine whether SMHS had established an adequate monitoring system, we:

- Reviewed applicable laws and policies;
- Reviewed support for selected expenditures and other financial areas;
- Reviewed applicable management controls;
- Reviewed strategic planning documents and performance data; and
- Interviewed selected staff.

Improving Issues with Legislative Intent

Based on a review of the purpose and duties established by state law for SMHS, we noted improvements were needed to ensure compliance. We also noted the mission statement of SMHS was not consistent with the purpose established in state law.

Complying with the Established Purpose and Duties of SMHS

In a comparison of the purpose and certain duties established by state law and the actions taken by SMHS, we noted the following:

- North Dakota Century Code (NDCC) Section 15-52-01 states the purpose of SMHS "must be to provide facilities for the coordination, improvement, expansion, and unification of health and welfare activities of the state and its agencies and its political subdivisions and private medical practitioners." While SMHS has taken steps related to this section of law (such as entering into partnerships with the North Dakota Department of Health and establishing the Center for Rural Health), we concluded SMHS may not fully coordinate, improve, expand, and unify the health and welfare activities of the state. The purpose established in state law has remained unchanged since 1945. The consultants hired to assist with this performance audit stated this purpose does not appear to be consistent with other medical schools across the country.
- NDCC Section 15-52-15 requires the university "to compile a list of cities, towns, and other municipalities in this state without a qualified physician or dentist or with an insufficient number of qualified physicians or dentists, and to endeavor to supply physicians or dentists to such cities, towns, and other municipalities." While SMHS has a vacancy list identifying where job openings are located in the state, there is not a list of cities and towns without a qualified

The purpose and certain duties established by state law are not accomplished by SMHS.

Chapter 1
Issues Related to State Law

physician or dentist. SMHS has compiled maps identifying shortages for certain fields (such as primary care health professionals). However, such maps are compiled based on guidelines not established by SMHS. SMHS has not established criteria for determining what an "insufficient" number of qualified physicians is and uses guidelines established by the federal government and the state Department of Health. Criteria for determining an 'insufficient' number is essential for determining the extent to which SMHS is endeavoring to supply physicians in these cities and towns. SMHS has established certain programs in an effort to supply physicians to rural locations. For example, all medical students complete a minimum of four weeks during their last two years in a rural location and the Rural Opportunities in Medical Education (ROME) program was initiated in 1998 to have self-selected junior students spend seven months in rural communities. However, the Dean of SMHS noted to us there was an unrealistic expectation some people have regarding a doctor in every community. Until criteria is established for "insufficient," it is difficult to determine whether the Dean's interpretation is consistent with legislative intent.

- NDCC Section 15-52-29 authorizes and directs SMHS "to provide or encourage means for providing for the training of such psychiatrists and other psychiatric personnel as may be necessary to properly staff state institutions and agencies providing services in the field of mental health." This requirement has remained unchanged since 1957. SMHS does not identify the psychiatric need or appropriate staff required at state institutions and agencies providing services in the field of mental health.

While certain laws have not been modified in a significant number of years and may be in need of review, SMHS has not taken appropriate action to comply with legislative intent or initiate changes to state law. As a result, SMHS may be using appropriated funds for purposes other than those which have been legislatively mandated.

Recommendation 1-1

We recommend the School of Medicine and Health Sciences comply with state laws regarding the purpose and duties of the medical school or take appropriate action to modify state laws.

Management's Response

Agree with the recommendation. The SMHS endeavors to comply with state law, but believes that NDCC Chapter 15-52 needs to be modified, as it is outdated and is in need of being rewritten. The SMHS will petition the Medical Center Advisory Council and the SBHE for direction and assistance in transmitting a petition to the State legislature to achieve this goal.

It should be noted that the Center for Rural Health maintains an active database of health workforce shortages that is conducted and updated three to four times per year. The vacancy list identifies the cities, towns and areas that self-report as having vacancies for not only physicians, but also nurses, laboratory technicians, mental health providers, physical

Chapter 1 Issues Related to State Law

therapists, occupational therapists, and others. These reports are available on the Center for Rural Health Website.

The SMHS, through its Center for Rural Health (CRH), does use two established criteria for determining physician capacity and need. The first criterion is set forth by the federal government's Office of Shortage Designation and is the methodology that the CRH follows for designating shortages of physicians, dentists, and mental health providers. The second is the criterion followed to determine insufficient capacity as established in the State's loan repayment programs for physicians and dentists, which is more lenient than the federal definition.

To avoid confusion as to which standard for shortage is being used, the SMHS will establish and use a single criterion when reporting workforce shortage data.

Improving the Mission Statement

The mission statement of SMHS states:

"The mission of the University of North Dakota School of Medicine and Health Sciences is to educate and prepare North Dakota residents as physicians, medical scientists and other health professionals for service to the people of North Dakota and the nation, and to advance medical and biomedical knowledge through research."

The mission of SMHS is not consistent with the purpose established in state law.

The mission statement is not consistent with the purpose of SMHS established with NDCC Section 15-52-01. As a result, resources used in accomplishing the mission of SMHS may not be in accordance with legislative intent. For example, we noted certain instances in which appropriated funds were supplementing research. We could not determine how often this was occurring (this issue is further addressed in Chapter 4, section entitled *Supplementing Research*). According to SMHS, the mission statement was last modified in 1996. Necessary changes to the mission statement should not occur until the previous recommendation regarding the legislative intent of the medical school has been addressed.

Recommendation 1-2

We recommend the School of Medicine and Health Sciences ensure their mission statement is consistent with legislative intent established in state law.

Management's Response

Agree with the recommendation.

Disagree with the narrative, as NDCC Section 15-52-01 specifies certain 'purpose(s)' of the state medical center. The SMHS does not agree that such specified 'purpose(s)' constitute a mission statement for the SMHS. Accordingly, to ensure that the mission statement of the SMHS is consistent with state law, we will ask the Medical Center Advisory Council and the SBHE for direction and assistance in petitioning the State legislature to rewrite NDCC Section 15-52-01.

Chapter 1
Issues Related to State Law

**State Auditor's Concluding
Remarks**

SMHS states it does not agree the purpose statement within state law constitutes a mission statement. We never say it does. We identify an inconsistency with the purpose established by state law and what SMHS believes its purpose is. Consistency should exist between what state law says the purpose of the school is and what SMHS believes the purpose is.



Testimony in Support of Engrossed SB No. 2079
House Education Committee
March 2, 2009

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In response to the recommendations of the performance audit report, SB 2079 would update the statutory language relating to the UNDSMHS as follows:

Section 1 of the bill would update the purpose of UNDSMHS. The bill as introduced and as suggested by the UNDSMHS Advisory Council was drafted to recognize the Medical School’s broad purpose to “enhance the quality of life in North Dakota through the education of physicians and other health professionals and through the discovery of knowledge, thereby improving the health of the public.” The Senate amended the bill to revise the statutory purpose to read: “The primary purpose of the University of North Dakota School of Medicine and Health Sciences is to educate physicians and other health professionals and to enhance the quality of life in North Dakota. Other purposes include the discovery of knowledge that benefits the people of this state and enhances the quality of their lives.”

Sections 2 through 6 would change statutory references from the “state medical center” to the “university of North Dakota school of medicine and health sciences.”

Section 7 would, as provided in SB 2077, remove the outdated statutory requirement in Section 15-52-15 that UND compile a list of municipalities without sufficient numbers of physicians and dentists.

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