

**2013 HOUSE EDUCATION**

**HB 1281**

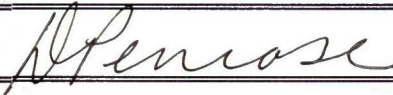
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1281 (didn't record)  
January 23, 2013  
17621

☐ Conference Committee

Committee Clerk Signature



## Minutes:

**Ch. Nathe:** We will open the hearing on HB 1281.

**Rep. Joe Heilman:** Sponsor, support, explained the bill (see attached #1, 2).

**Rep. Rohr:** Were these built in.

**Rep. Heilman:** There was a concern about this.

**Ch. Nathe:** What FTE's did they bring on board.

**Rep. Heilman:** An Audit and Compliance Officer which were board approved, these were brought on as an emergency action.

**Ch. Nathe:** Was this unconstitutional.

**Rep. Heilman:** No.

**Rep. B. Koppelman:** The appropriation and budget are intertwined.

**Rep. Heilman:** As a legislative body vs. higher ed and the necessary transparency is needed for operations.

**Ch. Nathe:** Does this take flexibility away from the Chancellor.

**Rep. Heilman:** This limited the board and chancellor.

**Ch. Nathe:** Thank you. Further testimony in support. Testimony in opposition.

**H.A. Shirvani, Chancellor, NDUS:** Opposed (see attached #3).

**Rep. B. Koppelman:** You talked about legal counsel.

**H.A. Shirvani:** We have two lawyers and that's not enough to cover the 9 colleges. If we get the appropriation in the budget - those won't be needed.

**Rep. B. Koppelman:** How will these be paid for, taxes.

**H.A. Shirvani:** Yes, if get dollars, we won't need the assessment. It was a temporary measure - it is in conflict with constitution, this only chips away at the system.

**Ch. Nathe:** What kinds of positions.

**H.A. Shirvani:** If we get the dollars, but it won't be enough.

**Ch. Nathe:** What would stop a system from cost-sharing - small campuses are going to be hurt.

**Rep. Heilman:** Why bill more dollars.

**H.A. Shirvani:** For the additional people.

**Ch. Nathe:** How many.

**H.A. Shirvani:** We would like 30 positions in total.

**Ch. Nathe:** What if you don't get 30. The checks and balances are the FTEs.

**H.A. Shirvani:** Different interpretation. We manage and use best practices - they have 56 people in MT including temporary.

**Rep. Heilman:** What are the costs.

**H.A. Shirvani:** Simple numbers, the system is so restricted, you can't take it to the next level.

**Ch. Nathe:** Has the appropriation gone through.

**H.A. Shirvani:** No.

**Ch. Nathe:** Thank you. Further testimony in opposition. We will close the hearing.

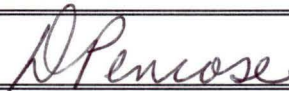
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1281  
February 18, 2013  
19135

☐ Conference Committee

Committee Clerk Signature



## Minutes:

**Ch. Nathe:** This is the bill that Rep. Heilman brought. It has to do with the authority for higher education to transfer funds into the NDUS. This comes from the Chancellor assessing a tax to all 11 colleges/universities so he could go ahead and hire some FTEs for his office. This bill would prevent his office from doing that.

**Rep. Mock:** Would this bill prohibit universities from voluntarily entering into agreements with other institutions to pool resources. Should 1 full FTE not be necessary, say UND and Mayville State pooled resources to have one individual more specialized service both universities, would this bill prohibit that.

**Ch. Nathe:** In looking at the Chancellor's testimony on the back page, he brings some examples of some shared services here. Quite frankly, that's what I was waiting for. Rep. Heilman was looking into that very question. I know Rep. Meier has been working Rep. Heilman. Rep. Meier, can you speak to that.

**Rep. Meier:** Actually I visited with Rep. Heilman a couple weeks ago. I think he did some checking and he was under the influence that it did not affect it. I can do a little more checking on it. I had asked him about bringing forth some amendments on the bill. He had stated that in checking, he didn't think that effect would happen.

**Ch. Nathe:** That would be great. Make sure that the issue of shared services has been covered before we act on this.

**Rep. Meier:** Yes.

**Ch. Nathe:** I do have a call in to Rep. Heilman but haven't heard back from him yet this morning.

**Rep. Wall:** A concern I have on the bill, is limiting the State Board of Higher Education so they may not use the funds appropriated. I'm wondering if we need to also specifically or can control other campus monies like tuition dollars, auxiliary dollars, etc. so they don't get tapped. I want it clear that our intent is no campus money or dollars will be diverted. I know we control the appropriated dollars. I don't know if the intent is there but I want to make it clear that ancillary dollars won't be used, nor will tuition dollars be used by NDUS.

**Ch. Nathe: Rep. Meier, please get a clarification on that when you talk to Anita Thomas, LC. Those are concerns, Rep. Wall that I have had as well. We will hold off on action until we hear from Legislative Council. We are adjourned for now.**

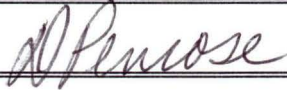
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1281  
February 19, 2013  
19153

☐ Conference Committee

Committee Clerk Signature



## Minutes:

**Ch. Nathe:** Let's take a look at HB 1281. Rep. Meier, can you explain the amendments.

**Rep. Meier:** A few of us went us to Legislative Council yesterday. I know there were some concerns on HB 1281 dealing with the shared services amongst the universities, so what we have before us is an amendment that I think addresses the concern for the shared services. Basically, any shared services that have been shared, will still be shared. We put in an effective date in the sunset clause to end June 2015 because we feel that hopefully there will be good restrictions going forward, but we wanted to make sure that just in case the universities had some concerns, we put a sunset on it.

**Ch. Nathe:** I think the sunset clause gives the State a little flexibility if this shouldn't work the way we desired it to, at least we're not locked in forever. It will run for two years to see how it works. Then it can be revisited. It gives us an out with the sunset clause.

**Rep. Meier:** I think it addressed our concerns. We put an emergency clause on it to go into effect immediately.

**Ch. Nathe:** This is a hog house amendment.

**Rep. Meier:** It is, but I think it covers the same intent.

**Ch. Nathe:** Section 1, subsection 2, again for any of the shared services, and that was my main concern was that the shared services at least keep continuing, it doesn't hinder this from happening. So section 1, subsection 2 will keep that in place.

**Rep. Meier:** The other important thing that the amendment does, though, is if the board feels that it wants to go to the universities for some costs, they can do that; although they have to go before the budget section and seek approval. I know there were some concerns over this being constitutional. I know the chancellor had expressed concerns. We wanted to make sure that we attended to that concern, and this amendment does that as well.

**Ch. Nathe:** He can impose an assessment on the colleges but he would have to run it in front of the budget section to get their approval. If they give their approval, they can do it. If not, they can't do it. We're not stopping him, he just has to get the approval from the budget section.

**Rep. Mock:** The language specifically adheres to the university system and the pooling of resources as coordinated by the chancellor's office. If Mayville State and Valley City State choose without the guidance of the university system, but just those two institutions decide to pool resources, do they need to seek approval from legislative management or from the budget section in order for that to move forward.

**Ch. Nathe:** As I understand it, no, it will still be business as usual. This has to do with the chancellor and his office. **Rep. Meier** do you understand it that way.

**Rep. Meier:** Yes.

**Ch. Nathe:** We wouldn't affect that relationship as well.

**Rep. Mock:** As long as that is the intent.

**Rep. Wall:** I just want to point out section 3, that there is an emergency clause in this, so it will go into effect and bar any diversion of funds in the near future.

**Rep. Rohr:** One of the concerns that I had about with this bill, goes back to the economies of scale. In other words, the chancellor hired an internal auditor and a compliance officer who would benefit the entire university system so what hinders the 11 institutions from going in and hiring their own internal auditors and their own compliance officers.

**Rep. Meier:** They would already have to work within their budget. Quite honestly, I think that if they felt that they needed to do that, they could still do that.

**Ch. Nathe:** Some schools already have those people on staff. This would just affect the chancellor's office and his ability to go ahead and impose a tax on all the colleges. With this amendment, he could do that, provided he gets the approval from the budget section. It is run by the legislature. He can't just do it unilaterally, which has been proposed in the past. I think it's a good compromise.

**Rep. Meier:** I move the amendment.

**Rep. Wall:** Second the motion.

**Ch. Nathe:** Voice vote, carried. We now have the bill before us as amended. What are your wishes.

**Rep. Meier:** I move a Do Pass as amended.

**Rep. Rohr: Second the motion.**

**10 YES 2 NO 1 ABSENT**

**DO PASS AS AMENDED**

**CARRIER: Rep. Meier**



February 18, 2013

V/K  
2/19/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1281

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the assessment of institutions of higher education; to provide an expiration date; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**Assessment of institutions.**

1. Before the state board of higher education may impose an assessment on or otherwise require that individual institutions of higher education pay for any goods or services provided by or through the university system office, the state board must seek approval from the budget section of the legislative management.
2. This section does not apply to any assessments or payment obligations for goods or services in effect before the effective date of this Act.

**SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2015, and after that date is ineffective.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2/19/13  
Roll Call Vote #: \_\_\_\_\_

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1281

House \_\_\_\_\_ **EDUCATION** \_\_\_\_\_ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0294.01001

Action Taken: ☐ Do Pass ☐ Amended ☐ Rerefer to Appropriations  
☐ Do Not Pass ☒ Adopt Amendment

Motion Made By Rep. Meier Seconded By Rep. Wall

Representatives	Yes	No	Representatives	Yes	No
Chairman Mike Nathe			Rep. Bob Hunsakor		
Rep. Mike Schatz			Rep. Jerry Kelsh		
Rep. Joe Heilman			Rep. Corey Mock		
Rep. Brenda Heller					
Rep. Dennis Johnson					
Rep. Ben Koppelman					
Rep. Lisa Meier					
Rep. Karen Rohr					
Rep. David Rust					
Rep. John Wall					

TOTAL (YES) \_\_\_\_\_ (NO) \_\_\_\_\_ (ABSENT) \_\_\_\_\_

FLOOR ASSIGNMENT \_\_\_\_\_

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

Voice vote, motion carried.

Date: 2/19/13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1281

House EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☒ Amended ☐ Rerefer to Appropriations  
☐ Do Not Pass ☐ Adopt Amendment

Motion Made By Rep. Meier Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Mike Nathe	✓		Rep. Bob Hunsakor	✓	
Rep. Mike Schatz		✓	Rep. Jerry Kelsh	✓	
Rep. Joe Heilman			Rep. Corey Mock	✓	
Rep. Brenda Heller	✓				
Rep. Dennis Johnson	✓				
Rep. Ben Koppelman	✓				
Rep. Lisa Meier	✓				
Rep. Karen Rohr	✓				
Rep. David Rust		✓			
Rep. John Wall	✓				

TOTAL (YES) 10 (NO) 2 (ABSENT) 1

FLOOR ASSIGNMENT Rep. Meier

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

**REPORT OF STANDING COMMITTEE**

**HB 1281: Education Committee (Rep. Nathe, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1281 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the assessment of institutions of higher education; to provide an expiration date; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**Assessment of institutions.**

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2. This section does not apply to any assessments or payment obligations for goods or services in effect before the effective date of this Act.

**SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2015, and after that date is ineffective.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2013 SENATE EDUCATION**

**HB 1281**

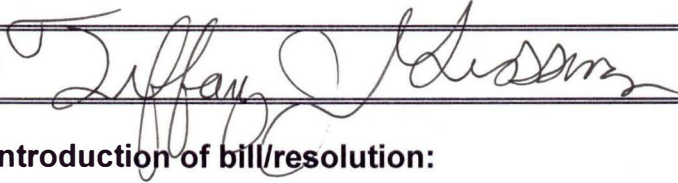
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee  
Missouri River Room, State Capitol

1281  
3-18-13  
20021

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the assessment of institutions of higher education; and to provide an expiration date

## Minutes:

You may make reference to "attached testimony."

**Chairman Flakoll:** opened the hearing on HB 1281

**Representative Joe Heilman, District 45:** This bill came to me out of discussions in the interim higher education committee. (Written Testimony #1, #2, and #3 attached) Ended at 7:23

**Senator Heckaman:** This does not address the issue where the university system may borrow staff from the colleges?

**Representative Joe Heilman, District 45:** Not that I am aware of. I do also have an issue with that but from what I understood that was being handled in another policy. I didn't have the intent to include that in this bill.

**Senator Heckaman:** I serve on Audit and Fiscal review and we had our quarterly meeting on Wednesday and we heard the performance audit of the University Campus Office and that will be online.

**Chairman Flakoll:** If the system office doesn't get the 30 FTE's, the concern is they would assess campuses to get that 30 people anyway. Does this address that?

**Representative Joe Heilman, District 45:** I believe it does. This has nothing to do with current management practices.

**Chairman Flakoll:** Your intent includes both state and local dollars including student tuition?

**Representative Joe Heilman, District 45:** I think that is only fair.

**Senator Heckaman:** During the audit we heard there is a request for some FTEs but a lot of people that work for the University System are not FTE's. A majority of IT are not FTE's. I think this does cover others too.

**Chairman Flakoll:** Is that your belief?

**Representative Joe Heilman, District 45:** I would need to run that by legal counsel. I feel if we are going to be borrowing money from the campuses to benefit the rest of the system, I understand that because there are major cost sharing advantages that can happen. But when it is a mandate from above that they need to pay, that is hard for a campus to plan for especially in an interim. I think any relevant assessments should be covered by this bill.

**Senator Heckaman:** Why is the emergency clause taken out?

**Representative Joe Heilman, District 45:** We didn't get the votes. We missed it by a couple of votes. It was a heartbreaker. My hope is the system office would get the intent of the bill and not do any assessments before August 1<sup>st</sup> if the bill passes.

**Claire Holloway, General Counsel for the NDUS:** I wish to testify in opposition of HB 1281. (Written Testimony #4) Ended at 16:51

**Chairman Flakoll:** You believe the campuses are prohibited from paying one to the other?

**Claire Holloway, General Counsel for the NDUS:** Appropriated funds for one institution cannot be taken for another institution.

**Chairman Flakoll:** Explain how the Constitution wasn't violated when they took money from other campuses to work on Dickinson State Issues.

**Clair Holloway:** I don't have the historical value on where the funds originated from. I don't know if those were appropriated funds. I also don't know what conversations occurred with the Legislature.

**Chairman Flakoll:** UND is clearly paying for legal services for others campuses.

**Claire Holloway, General Counsel for the NDUS:** They benefit other campuses and NDSU and UND as well. A significant amount of our time is helping NDSU and UND too so they are receiving services for the money they paid in.

**Chairman Flakoll:** In the last 15 years the system has said they are autonomous. If they are autonomous why did the need to introduce HB 1102, HB 1104, SB 2094, SB 2095, and a bill this week on the Higher Ed System funding if they don't need our authority to do anything.

**Claire Holloway, General Counsel for the NDUS:** That is not the intention of my testimony. My testimony is about assessing campuses for services provided at the system office level.



**Chairman Flakoll:** Is there something in the Constitution about every dollar raised on behalf of education is a state dollar?

**Claire Holloway, General Counsel for the NDUS:** I am not familiar with that provision.

**Chairman Flakoll:** Can you provide the minutes of the meeting where the board voted on this bill to oppose it please?

**Clair Holloway:** I can.

**Senator Poolman:** I want to clarify that the board's position is no matter what the legislature appropriates, they should be able to go above and beyond that for any purpose and assess campuses because they didn't get what they wanted from the legislature?

**Claire Holloway, General Counsel for the NDUS:** That is not now the state board has verbalized it to me. The concern here it that it is not constitutional for the legislature to limit how we would assess campuses for positions or IT or anything else at the system office level. I would be surprised if anyone feels they should be assessing campuses for myriad positions.

**Senator Luick:** Can you define the emergency situation for us?

**Claire Holloway, General Counsel for the NDUS:** That was my term. I was trying to address the fact that there appears to be concern the system office is going to gather positions around legislative authority.

**Chairman Flakoll:** At the interim committee meeting the board chair said we need to go to the campuses because they have money and we don't. Wouldn't they as the board have the ability to go to the budget section emergency commission for the case of emergencies?

**Claire Holloway, General Counsel for the NDUS:** They could. The budget section meets quarterly so there might be a time lag. I think that would hamper some efficiencies. The constitutional issue still remains.

**Chairman Flakoll:** If there was something catastrophic such as a case of flooding in one areas, they meet more regular?

**Claire Holloway, General Counsel for the NDUS:** That could be. I don't have the knowledge about the frequency of the meetings.

**Chairman Flakoll:** Closed hearing on HB 1281

**Senator Poolman:** Move a Do pass on Re-engrossed HB 1281

**Senator Luick:** Second



**Senator Luick:** I believe this is a serious issue and I hope we can get it repaired some way or another.

**A roll call vote was taken for a Do Pass to Re-engrossed HB 1281: 6 yeas, 0 neas, 0 absent**

**Senator Poolman:** will carry

Date: 3-18-13

Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES**

**BILL/RESOLUTION NO.** 1281

Senate Education Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Poolman Seconded By Luick

Senators	Yes	No	Senator	Yes	No
Chairman Tim Flakoll	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Senator Joan Heckaman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Chairman Donald Schaible	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Senator Richard Marcellais	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Larry Luick	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Senator Nicole Poolman	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

Total (Yes) 6 No 0

Absent 0

Floor Assignment Poolman

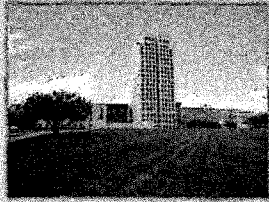
If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1281, as reengrossed: Education Committee (Sen. Flakoll, Chairman)** recommends  
**DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Reengrossed HB 1281 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1281**



HB 1281 - Higher Education Transfer of Funds and Hiring of NDUS Employees  
Rep. Joe Heilman - District 45

1

## Background Information

- ◆ Interim Higher Education Committee
- ◆ Dickinson State University situation
- ◆ NDUS needed to hire internal auditors and compliance officer



2

## NDUS Method

- ◆ Handout - Letter to Chancellor's Cabinet from Chancellor Shirvani
- ◆ "...approved addition of these two new positions, through campus assessment."

3

## Total Assessments to Campuses

Auditor Position and Compliance Officer	Legal Services
\$298,900	\$196,406

\*Refer to handout, Pg 3 for details

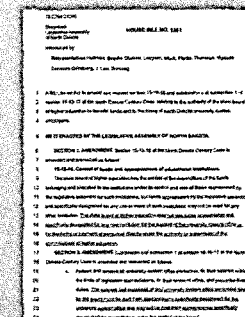
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## My Concerns

- ◆ Campuses don't have much of an option
- ◆ Could expand to more positions
- ◆ We have separate budgets for a reason

5

## The Bill



6

1/11

[illegible]

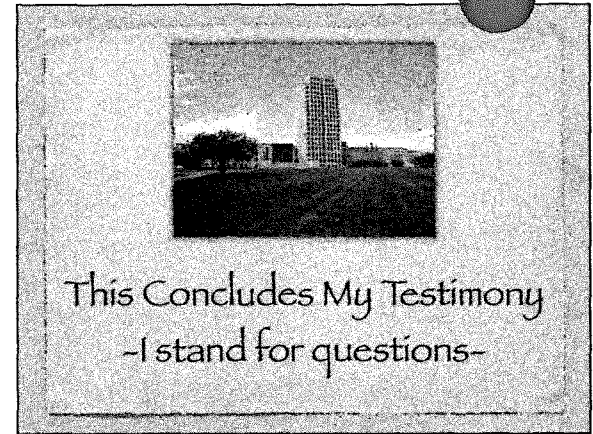
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**The Bill**

AN ACT TO AMEND THE UNIVERSITY SYSTEM OF THE STATE OF TENNESSEE

SECTION 1. The salaries and expenses of any university system office personnel hired by the board must be paid from appropriations specifically designated for the university system office and may not be paid from appropriations specifically designated for an institution under the control of the board.

8



9

Heilman  
#2

State Capitol • 600 E Boulevard Ave Dept. 215  
Bismarck ND 58505-0230  
Phone: 701.328.2960 Fax: 701.328.2961  
E-mail: NDUS.office@ndus.edu Web: ndus.edu

TO: Chancellor's Cabinet  
FROM: H.A. Shirvani, Chancellor  
DATE: August 16, 2012  
RE: Campus Assessments

Memo #P-12-21

Prior to my arrival, the SBHE Budget, Audit and Finance Committee (BAFC) endorsed a plan to put in place during FY13, one new System Internal Audit (IA) position and one new System Compliance position. This is in addition to the current System internal audit position. Also, in July 2012, as part of the FY13 NDUS Office budget, the SBHE approved addition of these two new positions, through campus assessment. At that meeting, I also asked that assessment be extended to include legal services.

In order to continue movement in these important areas during FY13, campuses will be assessed the cost for one additional IA (total of 2) and one new Compliance position beginning October 1, 2012. Attached is a schedule which shows the new assessment, by campus, for the remainder of FY13. The cost has been allocated on the same basis - combined assets and revenues - as the current internal audit position. The attached schedule does not include the assessment for the current IA position as that was sent to your campuses earlier.

Also, effective October 1, 2012, the nine campuses, excluding UND and NDSU, and System Information Technology Services (SITS) will be assessed for the cost of legal services. My office will continue to pay for thirty percent of the cost of the services for Pat Seaworth and Cynthia Wagner Goulet. Five percent of the total cost will be paid by SITS, based on historic utilization. The remaining 65% of the cost will be assessed to the nine campuses who currently utilize centralized legal services. The assessment will be based on headcount employees, excluding students. The assessment for the remainder of FY13 for legal services is reflected in column (5) of the attached schedule.

The 13-15 biennial budget request endorsed by the SBHE includes funding for new internal audit, compliance and legal positions, among others at the System level. I hope you will support this request.

I understand and appreciate the impact of these difficult decisions. I put forth this plan in order to respond to SBHE and others' expectations regarding more System oversight, accountability, efficiency, and in some cases quality. This cannot be accomplished

The North Dakota University System is governed by the State Board of Higher Education and includes:  
Bismarck State College • Dakota College at Bottineau • Dickinson State University • Lake Region State College • Mayville State University • Minot State University  
North Dakota State College of Science • North Dakota State University • University of North Dakota • Valley City State University • Williston State College



Memo #P-12-21  
August 16, 2012  
Page #2

without additional System staff resources. I have taken several steps to make difficult internal decisions and reallocations within the office to date. However, there is a limit to my ability to do so within the limited System Office budget. Additionally, there are certain services, while appropriately delivered at the System level that can and should be paid by campuses, due to their utilization.

I believe it is in the best interest of the entire NDUS to demonstrate a willingness to change and address some of the critical issues facing us within the next few short months.

Attachment

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<b>Combined Current Legal Services and New Internal Audit and Compliance Positions Assessment</b>							
<b>Fiscal Year 2013</b>							
	(1)	(2)	(3)		(4)	(5)	(6)
	Annual				FY13 Remaining Assessment		
	New Internal Auditor and Compliance Officer 1/	Current Legal Services 2/	Combined Total		IA and Compliance Assessment for Period 10/1/12 to 6/30/13	Legal Services Assessment for Period 10/1/12 to 6/30/13	TOTAL
BSC	\$11,729	\$37,395	\$49,124		\$8,797	\$28,046	\$36,843
LRSC	\$3,057	\$16,026	\$19,083		\$2,293	\$12,020	\$14,312
WSC	\$5,749	\$12,446	\$18,195		\$4,312	\$9,334	\$13,646
UND	\$120,125	\$0	\$120,125		\$90,094	\$0	\$90,094
NDSU	\$104,478	\$0	\$104,478		\$78,358	\$0	\$78,358
NDSCS	\$9,759	\$36,599	\$46,357		\$7,319	\$27,449	\$34,768
DSU	\$10,808	\$15,572	\$26,380		\$8,106	\$11,679	\$19,785
MaSU	\$6,260	\$16,936	\$23,185		\$4,687	\$12,702	\$17,389
MiSU	\$19,596	\$37,963	\$57,559		\$14,697	\$28,472	\$43,169
VCSU	\$5,277	\$14,264	\$19,541		\$3,958	\$10,698	\$14,656
DCB	\$2,073	\$9,207	\$11,279		\$1,554	\$6,905	\$8,459
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TOTAL		\$302,163	\$801,064		\$224,175	\$226,623	\$450,798
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# **North Dakota University System**

## **HB1281 – House Education Committee**

### **1/23/13, H. A. Shirvani**

Good morning Mr. Chairman and members of the committee. I am Ham Shirvani, Chancellor of the North Dakota University System. I appear before you today on behalf of the State Board of Higher Education in opposition to HB 1281. I will outline the reasons why we believe this bill would directly harm the University System and its constituent campuses.

HB 1281 contravenes the spirit of Article 8 of the North Dakota Constitution, which grants the SBHE “full authority” over the institutions under its control. Part of that authority includes the power and responsibility to manage financial and budgetary matters of the NDUS and institutions comprising the system.

When the drafters of the Constitution wanted to limit that authority, they did so by specifically carving out certain exceptions. They showed great prescience, however, by refraining from limiting the SBHE’s authority to use funds for the system office. Indeed, they could have done so quite easily when they drafted Section 6(e) of Article 8, which says funds allocated to one institution may not be used for another institution. The fact that they did not include the system office in that section shows it was not their intention to limit the SBHE this way.

HB 1281 would negatively impact ongoing and new collaborative technological efforts that create and maximize efficiencies across the North Dakota University System. The costs of many services are paid from state appropriations but many are enhanced through assessments to the institutions. This “sharing” across the System:

- Reduces duplicative efforts across institutions
- Increases purchasing power, leading to better pricing and services
- Reduces administrative workload due to single contracts/services
- Creates necessary expertise

Some specific examples are attached.

Outside of technology services, the NDUS shares legal services. Instead of each campus employing their own attorney, or contracting with costly outside counsel, nine of the eleven campuses, along with the SBHE and NDUS Office, share two legal counsel positions at the System Office. The same model applies for the audit function, to create more cost-effective shared positions that can operate with a consistent set of policies, procedures, and protocols. Other administrative areas, such as human resources, risk management, and compliance, are other worthy candidates for systemwide sharing. Individual campuses cannot afford to employ individuals for each of these functions. Absent direct general fund appropriations to support these positions, the only way to effect economies of scale and improve expertise at the campuses is to assess participants for the shared cost of the service.

HB 1281 would prevent students, faculty, and staff of the NDUS institutions from taking advantage of the economies of scale and efficiencies gained through systemwide services. These efficiencies save the state of North Dakota tens of millions of dollars. This bill, if passed, would only serve to impose limitations that are cost-ineffective and undercut the purpose of having a “system” of higher education.

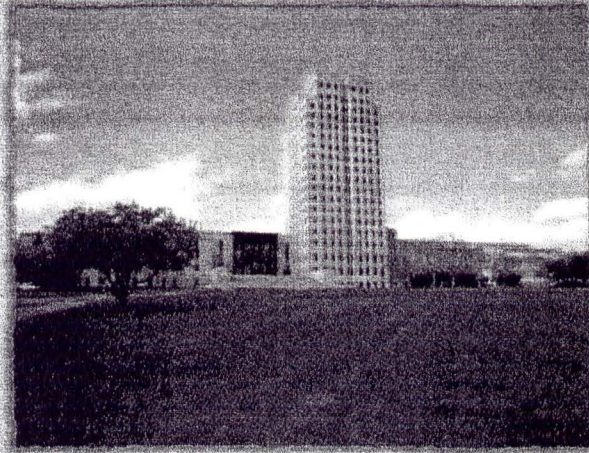
I would be happy to answer any questions.

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Examples of NDUS collaborative technological efforts:

- For some time, institutions have joined financial forces to increase purchasing power and reduce local expenses for a variety of System services that improve student access to programs and services, control costs, and reduce complexity across the System. These include the ConnectND student system, human resources system, the financial system, a variety of Microsoft systems and applications, the recently implemented lecture capture technologies, and the ODIN library system, to name just a few.
- HB 1281 would end the ability of institutions to pool financial resources and share in the cost of a system or service where operations are conducted at a System level but institutions pay in part or in whole.
- HB 1281 would require individual institutions to negotiate and purchase institutional licenses and other agreements.
- The ODIN Library System is an example of a service that would be impacted if HB 1281 were passed. This impact would extend beyond the University System -- it would affect K-12 students, state agencies, and public libraries. While K-12, public libraries and state agencies could be assessed their share of the operation, this assessment for NDUS institutions would be prohibited under the proposed bill.
- All types of libraries in North Dakota – higher education, public, K-12 and other libraries – have, for years, shared the costs to support the library system, which provides online catalog, circulation, purchasing materials, and interlibrary loan functions. This sharing of costs and resources brings significant resources to all of the NDUS institutions that many would not otherwise be able to afford.
- The libraries also have shared in the cost of online resources making them available to all North Dakota citizens.
- Institutions are assessed for their share of the cost for a common credit card processor for all systems. Under HB 1281, this would no longer be allowed.

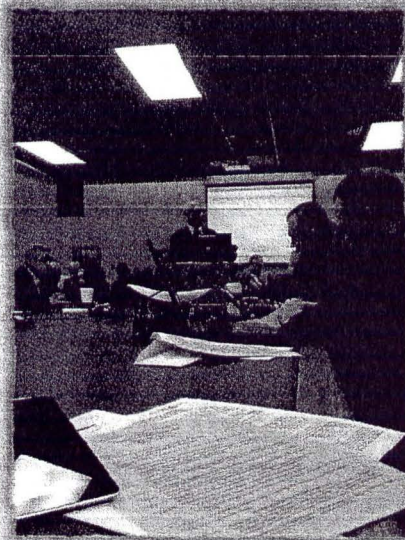




## HB 1281 - Higher Education Transfer of Funds and Hiring of NDUS Employees Rep. Joe Heilman - District 45

## Background Information

- ◆ Interim Higher Education Committee
- ◆ Dickinson State University situation
- ◆ NDUS needed to hire internal auditors and compliance officer





# NDUS Method

- ◆ Handout - Letter to Chancellor's Cabinet from Chancellor Shirvani
- ◆ "...approved addition of these two new positions, through campus assessment."

## Total Assessments to Campuses

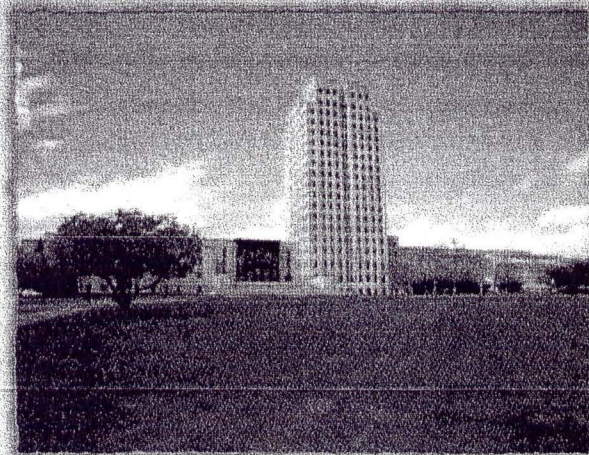
Auditor Position and Compliance Officer	Legal Services
\$298,900	\$196,406

\*Refer to handout, Pg 3 for details



# My Concerns

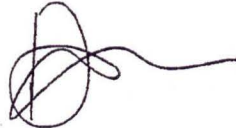
- ◆ Campuses don't have much of an option
- ◆ Could expand to more positions
- ◆ We have separate budgets for a reason



This Concludes My Testimony  
~I stand for questions~



TO: Chancellor's Cabinet  
FROM: H.A. Shirvani, Chancellor  
DATE: August 16, 2012  
RE: Campus Assessments



Memo #P-12-21

Prior to my arrival, the SBHE Budget, Audit and Finance Committee (BAFC) endorsed a plan to put in place during FY13, one new System Internal Audit (IA) position and one new System Compliance position. This is in addition to the current System internal audit position. Also, in July 2012, as part of the FY13 NDUS Office budget, the SBHE approved addition of these two new positions, through campus assessment. At that meeting, I also asked that assessment be extended to include legal services.

In order to continue movement in these important areas during FY13, campuses will be assessed the cost for one additional IA (total of 2) and one new Compliance position beginning October 1, 2012. Attached is a schedule which shows the new assessment, by campus, for the remainder of FY13. The cost has been allocated on the same basis - combined assets and revenues - as the current internal audit position. The attached schedule does not include the assessment for the current IA position as that was sent to your campuses earlier.

Also, effective October 1, 2012, the nine campuses, excluding UND and NDSU, and System Information Technology Services (SITS) will be assessed for the cost of legal services. My office will continue to pay for thirty percent of the cost of the services for Pat Seaworth and Cynthia Wagner Goulet. Five percent of the total cost will be paid by SITS, based on historic utilization. The remaining 65% of the cost will be assessed to the nine campuses who currently utilize centralized legal services. The assessment will be based on headcount employees, excluding students. The assessment for the remainder of FY13 for legal services is reflected in column (5) of the attached schedule.

The 13-15 biennial budget request endorsed by the SBHE includes funding for new internal audit, compliance and legal positions, among others at the System level. I hope you will support this request.

I understand and appreciate the impact of these difficult decisions. I put forth this plan in order to respond to SBHE and others expectations regarding more System oversight, accountability, efficiency, and in some cases quality. This cannot be accomplished

Memo #P-12-21  
August 16, 2012  
Page #2

without additional System staff resources. I have taken several steps to make difficult internal decisions and reallocations within the office to date. However, there is a limit to my ability to do so within the limited System Office budget. Additionally, there are certain services, while appropriately delivered at the System level that can and should be paid by campuses, due to their utilization.

I believe it is in the best interest of the entire NDUS to demonstrate a willingness to change and address some of the critical issues facing us within the next few short months.

#### Attachment

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Combined Current Legal Services and New Internal Audit and Compliance Positions Assessment							
Fiscal Year 2013							
	(1)	(2)	(3)		(4)	(5)	(6)
	Annual				FY13: Remaining Assessment		
	New Internal Auditor and Compliance Officer 1/	Current Legal Services 2/	Combined Total		IA and Compliance Assessment for Period 10/1/12 to 6/30/13	Legal Services Assessment for Period 10/1/12 to 6/30/13	TOTAL
BSC	\$11,729	\$37,395	\$49,124		\$8,797	\$28,046	\$36,843
LRSC	\$3,057	\$16,026	\$19,083		\$2,293	\$12,020	\$14,312
WSC	\$5,749	\$12,446	\$18,195		\$4,312	\$9,334	\$13,646
UND	\$120,125	\$0	\$120,125		\$90,094	\$0	\$90,094
NDSU	\$104,478	\$0	\$104,478		\$78,358	\$0	\$78,358
NDSCS	\$9,759	\$36,599	\$46,357		\$7,319	\$27,449	\$34,768
DSU	\$10,808	\$15,572	\$26,380		\$8,106	\$11,679	\$19,785
MaSU	\$6,250	\$16,936	\$23,185		\$4,687	\$12,702	\$17,389
MiSU	\$19,596	\$37,963	\$57,559		\$14,697	\$28,472	\$43,169
VCSU	\$5,277	\$14,264	\$19,541		\$3,958	\$10,698	\$14,656
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#4

## **North Dakota University System**

HB1281 – Senate Education Committee

March 18, 2013

Claire Holloway

Good morning, Mr. Chairman and members of the committee. I am Claire Holloway, General Counsel of the North Dakota University System. I appear before you today on behalf of the State Board of Higher Education in opposition to HB 1281. I will outline the reasons why we believe this bill is inconsistent with the Constitution of the State of North Dakota.

As you know, at both the state and federal level of government, the powers of each branch of government stem from the Constitution. HB 1281, however, would infringe Article 8 of the North Dakota Constitution, which grants the State Board of Higher Education “full authority over the institutions under its control.” Part of that authority includes the power and responsibility to manage financial and budgetary matters of the North Dakota University System and the institutions comprising the system.

When the drafters of our Constitution wanted to limit that budgetary authority, they did so by specifically carving out certain exceptions. They showed great prescience, however, by refraining from limiting the State Board of Higher Education’s authority to use funds for the system office. Indeed, they could have done so quite easily when they drafted Section 6(e) of Article 8, which says funds allocated to one institution may not be used for another institution. The fact that they did not include the system office in that section very clearly shows it was not their intention to limit the State Board of Higher Education this way. As a result, requiring budget section approval of campus assessments is not consistent with the North Dakota Constitution.

I would be happy to answer any questions.