

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1304

2005 HOUSE APPROPRIATIONS

HB 1304

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1304

House Government Performance Division

☐ Conference Committee

Hearing Date January 18, 2005

Tape Number	Side A	Side B	Meter #
1		X	1604-End
2	X		1-70

Committee Clerk Signature



Minutes: **Chair Carlson** opens hearing on HB 1304.

Jim Smith, Legislative council: Section 1 and section 2. (REFER TO HB1304)

Chair Carlson: In existing statute are there any limitations on leasing authority?

Jim: There is a section that requires agencies to do an analysis.

Rep. Skarphol: Did you say these were only those over 50,000, or over any dollar amount?

Sheila Peterson, OMB: The statute says that everything over 50,000 dollars has to be reported. If an agency reports something lower than that, we record it as well.

Rep. Skarphol: Do you have the ability to tell us accumulated amount that's under 50,000?

Sheila: No.

Chair Carlson: So this would be the report that you believe would answer the questions of this bill?

Sheila: This bill tells me you want to know every rent lease we have, and every copier lease we have. This does not have the same exclusions as subsection 8.

Rep. Monson: You mentioned that everything that is off budget is not on here. What would be some examples of things that are not on here that would be off budget?

Sheila: Anything that does not run through your appropriation process. That includes things like the Commodity Groups that have their beef check off, or their corn check off.

Rep. Skarphol: If you discount Higher Education, and you discount the Commodity Groups. How many other entities do you think there are that would have off budget authorization, and continuing appropriations?

Sheila: There are a few that come to mind, the State Fair, other than what is appropriated, and the lottery employees are off budget.

Rep. Monson: How about Parks and Recreation, where they charged fees for entrance to the parks, is that on there?

Sheila: No, you appropriate those, those are not continuing appropriations.

Rep. Monson: Looking at the bill, it talks about financing or leasing. Is that going to show up anyplace in a report?

Sheila: ITD has some authority to finance their mainframe equipment, then they repay that lease over a period of time, because they charge it back to the agencies.

Rep. Skarphol: This was supposed to include all types of borrowing, including the Bank of North Dakota as a potential source of revenue for borrowing. Besides the Water Commission, are there other entities that has the Bank of North Dakota as a potential source of revenue. Besides the Water Commission, are there other entities that have the Bank of North Dakota as a potential source of revenue that could be a liability to us in the event of some kind of catastrophe?

Sheila: ITD, DOT, Disasters, Emergency Management with approval, and your Performance Contracting for Energy Efficiency.

Rep Skarphol: Is there a limit on what the Mill can borrow.

Karlene Fine, Industrial Commission: It's based on there assets, on what they have, and what there cash flow is.

Rep. Skarphol: The improvements the Mill is proposing borrowing for and making out to Mill Organic Product, isn't that something the Industrial Commission Approved, and their going to be going forward with?

Karlene: The commission has authorized a project for the C Mill, part is expansion, and part of it is organic.

Rep. Monson: How about the Water Commission, do they have any borrowing authority outside of bonds?

Karlene: There is a 25 million line of credit they can draw on, until they can do the bonding.

Laura Glatt, Vice Chancellor for Administrative Affairs: Testifying against bill. (SEE WRITTEN TESTIMONY)

Rep. Monson: You were able to tell us how many leases they have, so they must be reporting that to you in your office?

Laura: No, in preparation for my testimony, I asked them to quickly give me a figure of how many leases and financing arrangements would fall into this category.

Chair Carlson: Does the University System have borrowing authority at the Bank of North Dakota?

Laura: The only borrowing that I'm aware of at the Bank of North Dakota, is the Emergency Commission Borrowing for flood related costs.

Rep. Skarphol: With Connect ND, I would expect with the new counting system, that within a matter of minutes the right keyboard operator could produce this report that we envisioned getting.

Laura: Connect ND has much potential. The thing we have to remember, is the system will not spit out anything that is not put in correctly on the front end.

Rep. Monson: Your saying that all those airplane leases, for instance, are all paid with special funds. Is there any obligation by the state of North Dakota to come forth and pay off some of those leases, if for some reason your special funds don't cover that.

Laura: On all contracts that we sign, including any lease debt contracts, we are required by the Attorney Generals office to include a nonappropriation clause.

Rep. Skarphol: Do you produce a College Caffer?

Laura: We do, it's a consolidated financial statement for the university system.

Rep. Skarphol: In the preparation of that document to get the accumulated numbers, don't you have to have the institutional numbers?

Laura: The campuses, while preparing their financial statements, will have to look at the current debt service, and the outstanding debt service in preparing those totals.

Gordy Smith, Auditors Office: General testimony on suggestions that would be useful for legislators.

Rep. Skarphol: Real-estate leases were not included, could you give us an idea of the realstate leased within the Bismarck/Mandan area?

Sheila: Yes we can. We have it by county, so we actually have all 53 counties. We will get a copy to you.

Hearing Closed.

*Govt Performance
1304*

General Discussion

- ☐ Committee on Committees
- ☐ Rules Committee
- ☐ Confirmation Hearings
- ☐ Delayed Bills Committee
- ☒ House Appropriations
- ☐ Senate Appropriations
- ☐ Other

Date January 27, 2005

Tape Number

1

Side A

B Side

X

Meter #

2000-3250

Committee Clerk Signature

Stephen W. Thomas

Minutes: **Chair Carlson** opened the general discussion on HB 1304, relating to requiring financing and leasing information in the budget data contents; and to amend and reenact 54-44.1-08 of the North Dakota Century Code, relating to budget reports to the legislative assembly.

Chair Carlson: We want section 1, but we want you to give it to us.

Sheila, OMB: Then you need to get rid of section 1, and put it in section 8.

Chair Carlson: We're going to work some more on this.

Roxanne, Legislative Council: Take out section 1, put in section 8. Agency to OMB, OMB to you.

General Discussion

Page 2

House Government Performance

January 27, 2005

1304

Rep. Skarphol: Is there any off budget request?

Sheila: Airplanes, for example, UND leasing 100 planes for pilot training; tuition dollars, major research equipment.

Closed General Discussion Hearing.

General Discussion

- ☐ Committee on Committees
- ☐ Rules Committee
- ☐ Confirmation Hearings
- ☐ Delayed Bills Committee
- ☒ House Appropriations
- ☐ Senate Appropriations
- ☐ Other

Date January 28, 2005

Tape Number

1

Side A

X

B Side

Meter #

4240-5200

Committee Clerk Signature

Stephanie Thomas

Minutes: **Chair Carlson** opened general discussion hearing on HB 1304, relating to requiring financing and leasing information in the budget data contents; and to amend and reenact 54-44.1-08 of the North Dakota Century Code, relating to budget reports to the legislative assembly.

Discussion of amendment. (SEE AMENDMENT 50540.0102)

Chair Carlson: Instead of having a new section 10, what we did is we had a section 8, and we rolled that information into section 8.

Roxanne, Legislative Council: That's correct.

*Gout
Performance
1304*

Chair Carlson: This will not get us copiers and all that stuff. It's 50,000 dollar level, so it will just be the bigger stuff, right?

Rep. Skarphol: Yes.

Rep. Monson: Is Higher Education exempt still, or are they in?

Roxanne: Higher Education is in.

Rep. Glassheim: So this is just for over 50,000 leasing arrangements, get reported?

Chair Carlson: Yes, and they're already doing it, we're just asking them to add some more line items to their detail.

Rep. Skarphol: I move amendment 0102.

Rep. Glassheim: I second.

Rep. Monson: I move do pass, as amended.

Rep. Skarphol: I second.

Chair Carlson: HB 1304 is do pass, as amended.

Closed General Discussion Hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1304
Financing or Leasing Reports

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 1, 2005

Tape Number	Side A	Side B	Meter #
2	X		#52.8 - end
2		X	#0 - #7.5
3	X		#3.8 - #17.6

Committee Clerk Signature *Chris Alexander*

Minutes:

Rep. Ken Svedjan, Chairman opened the hearing on HB1304.

Rep. Eliot Glassheim explained that the proposed amendment is really the whole bill now. We already get information on lease/purchase agreements but this bill extends the amount of information that is gathered in the budget process. OMB has reported that they could do this without any difficulty.

Rep. Eliot Glassheim moved to accept the amendment.

Rep. Al Carlson seconded.

Rep. Pam Gulleon asked if there were any discussions regarding the inclusion of contract services as well

Rep. Eliot Glassheim answered that no there were not, and the discussions were primarily focused on the lease agreements, but that the main interest was in the long-term things that the state would be responsible for.

Rep. Al Carlson commented that the contracted services never came up in discussion and continued by showing where the information was gathered in the budget book and said that this bill is asking for only an extension of the information that they are already gathering. (meter Tape #2, side A, #54, end)

Rep. Jeff Delzer commented that adding contracted services to the information that is gathered wouldn't be a good idea because there are so many of them in Human Services alone that the reports would be hundreds of pages. This bill would focus on purchases of equipment or things that the legislature should really be making the decisions on about which would be the best way to fund that particular issue. (meter Tape #2, side B, #3.1)

Rep. Ron Carlisle asked why we need the bill if would could just ask OMB add this additional information to what they are already gathering.

Mr. Joe Morissette from OMB answered that they have only ever acquired the information that was required which is a list of what these assets are. OMB would follow whatever directive you would give them, whether it is a directive or in statute.

Rep. Ole Aarsvold commented that somewhere in code there is a requirement for a cost benefit analysis when we enter leasing arrangements. Is this another part of the code or is it included here somewhere.

Rep. Bob Skarphol answered that the committee did not discuss these issues but would like to ask the chair if we could hold on to this bill because there are a couple things that I have been

made aware of that directly concern the issue that Rep Aarsvold has just brought up concerning cost analysis.

Rep. Ole Aarsvold commented that this seems to pertain only to the situation where we are the recipient of the leasing. What happens when we are the one providing the lease, is this included in this language.

Rep. Bob Skarphol this is concerning leases that are over \$50,000 and most of our leases are under this. But for any leases over \$50,000 should be included.

Rep. Ken Svedjan, Chairman asked if Rep Skarphol could gather his information by the afternoon.

Rep. Al Carlson commented that we are not presently gathering any information about when we are doing the leasing.

Rep. Ken Svedjan, Chairman commented that the language in the bill suggests that the information to be gathered is all leasing information whether we are the one getting the lease or giving it.

Rep. Ken Svedjan, Chairman called for a voice vote on the motion to accept the amendment to HB1304. Motion carried. (meter Tape #2, side B, #6.3)

* The chair postponed further discussion on this bill until after the lunch break.

* The chair reopened discussion of HB1304 (meter Tape #3, side A, #3.8)

Rep. Bob Skarphol distributed handout #21-1 and explained the situation explained in this handout was an example of agreements entered into on behalf of the state that the legislature is not made aware of in advance. We need an amendment that requires a cost benefit analysis for

these with prior notification of these agreements so some segment of the policy making branch of the government would have some input in the decision in advance

Rep. Ron Carlisle asked how the timing would work if the legislature is not in session

Rep. Bob Skarphol answered that at least we would get a report of what happened when we get to the budget section so that if we think it is inappropriate we could ask for a delay in implementation. There should be some mechanism that we could utilize that wouldn't be particularly onerous and most of these facilities have done enough long term planning that they could bring this to us in a legislative session as a perspective deal and then we would have some input as to whether or not they would go forward with it.

Rep. Ken Svedjan, Chairman asked for clarification of the sample situation that was described in handout #21-1. (meter Tape #3, side A, #5.5)

Rep. Jeff Delzer commented on the situation as being just a way for them to get around their bonding limit and wondered if anyone ever checked into the legality of this example.

Rep. Bob Skarphol mentioned that he was working with Mr. Jim Smith about this and there is a code requirement concerning cost benefit analysis but it does not apply in this case and in leases in general. Decisions are made with no one ever being required to say what they based those decision on and that is a mistake on our part.

Rep. Al Carlson what is the state's exposure here?

Rep. Bob Skarphol answered that we are paying the lease. My point in this is that we should be made aware of these agreements in advance, not after the fact.

Rep. Ken Svedjan, Chairman asked if we know how the lease is being paid for in this example.

Mr. Gordy Smith from the State Auditor's Office answered that NDSU is using NDSU dollars to make the payments for this. Under the lease agreement all of the obligations of this including the payment of rent is assigned to NDSU. Every two years the two parties can revisit the lease and in this last review the Research and Technology Park did raise the rent and could continue to do so in the future. (meter Tape #3, side A, #9.3)

Rep. Ken Svedjan, Chairman commented that this example is telling us that we need to see language in this bill that ensures that we can get a cost analysis before any agreements have been reached.

Mr. Gordy Smith agreed and said a required cost analysis for lease agreement would benefit everyone involved and it gives the parties involved a chance to explain the reasoning behind their decisions.

Rep. Ken Svedjan, Chairman asked if we should include cost analysis requirements in an amendment to this bill.

Rep. Pam Gulleon asked how our oversight of this land works with the use of Foundations to enter agreements like this so they can channel dollars without our oversight and without our authority.

Mr. Gordy Smith answered that the use of Foundations has become bigger and bigger and it does result in dollars going outside of the state's authority. And they are shown separately on the state's financial statements. (meter Tape #3, side A, #14.1)

Rep. Ken Svedjan, Chairman commented that we should draft an amendment on this.

Mr. Jim Smith commented that in some of these situations the institution has come to the budget group about what their plans are so they have at least discussed some of their plans at a public meeting.

Rep. Ken Svedjan, Chairman stated that the committee would hold this bill until an amendment can be drafted for this. Rep Skarphol will be responsible for getting this done.

Rep. Ken Svedjan, Chairman postponed further discussion on HB1304 until next week. (meter Tape #3, side A, #17.5)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1304
Cost benefit reports for leasing agreements

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 8, 2005

Tape Number

1

Side A

Side B

X

Meter #

#9.6 - #23.3

Committee Clerk Signature

Chris Alexander

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1304

Rep. Bob Skarphol distributed amendment #0103 and explained that the amendment requires a cost benefit analysis for any leasing agreements and a presentation of the analysis to the Budget Section of the Legislative Council. Another change with this amendment is that there is a better definition in section 8 that makes the subsection 10 unnecessary so we took it out.

Rep. Ken Svedjan, Chairman commented that section 8 of amendment 0102 and amendment 0103 seem to be identical.

Rep. Bob Skarphol explained that the real change in the bill was that we focused on a different section of law and added more explicit language there on what was required for leases of \$50,000 or more.

Rep. Ken Svedjan, Chairman summarized that section one puts in language that requires the cost benefit analysis and its presentation to the Budget Section and that this is the essence of the bill.

Rep. Bob Skarphol moved to adopt amendment 0103 to HB 1304.

Rep. David Monson seconded.

Rep. Francis J. Wald asked how often these reports would come to the Budget Section and if this amendment would mean we would see a paper blizzard?

Rep. Ken Svedjan, Chairman asked how often reporting would take place or the timing as to when these presentations would fit.

Mr. Alan Knutson, from Legislative Council answered that this would be once or twice a year when the Budget Section meets.

Rep. Al Carlson commented that this information is already being gathered but this amendment would add the cost benefit analysis to it.

Rep. Ken Svedjan, Chairman asked if the current information be gathered is reported to the Budget Section.

Ms Sheila Peterson from OMB answered that section 1 is a new requirement on the agencies and that section 2 talks about what we already report to you with a few extra items.

Rep. Ron Carlisle asked why this needed to be in code rather than just being a request to the agencies. (meter Tape #1, side B, #15.5)

Rep. Al Carlson answers that if we didn't think this was necessary we wouldn't ask for it.

What we are really asking is what are the long term encumbrances facing the state through these

leasing agreements and how much is this going to cost. Our feeling is that if you are going to get the information you might as well get accurate and understandable information.

Rep. Ron Carlisle commented that Chairman Svedjan could ask for this information when the Budget Section meets.

Rep. Ken Svedjan, Chairman commented that it was good to know the value of reporting this more than once in the interim. Is there the need since these leases are being considered throughout the interim so would it make sense for the amendment to read "at least once annually."

Rep. Ken Svedjan, Chairman asked OMB if it would make sense for us to ask for this report at least once annually during the interim.

Ms Sheila Peterson from OMB answered that they had no real opinion since OMB would be the one doing this. Each individual agency would need to come before the Budget Section.

Rep. Bob Skarphol commented that the impetus for this is the fact that there is an instance that the State of North Dakota is responsible for all costs of the leasing to the cost of \$4.2 million and we will not own the building in the end. I find this unacceptable and as legislators we need to be made more cognoscente of these leases and the only way that this is going to be possible is for us to pass this piece of legislature requiring more explicit cost benefit analysis that would indicate for us the upside and downsides to entering into a lease. The real issue is that we need better information to make better decisions. (meter Tape #1, side B, #18.2)

Rep. Ken Svedjan, Chairman commented that the timing is a real issue here.

Rep. Bob Skarphol commented that it would be the decision of the chair of the budget section.

Mr. Alan Knutson of the Legislative Council agreed and said that as these analyses come in we could work with the budget section to see if the reporting is necessary at the time or to gather a few together and report them out all at one time. This allows for flexibility here.

Rep. Al Carlson commented that the meat of the bill was to expand the information gathered. This is for leases of \$50,000 or more which eliminates 95% of the leasing that goes on.

Rep. Ken Svedjan, Chairman called for a voice vote to adopt amendment 0103 to HB1304.

Motion carried. (meter Tape #1, side B. #21.2)

Rep. Bob Skarphol moved a Do Pass As Amended motion for HB1304.

Rep. David Monson seconded.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion on HB1304. The motion carried with a vote of 22 yeas, 0 neas, and 1 absence. Rep Skarphol will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed discussion on HB1304.

January 24, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1304

Page 1, line 2, remove "; to create and enact subsection 10 to section 54-44.1-06"

Page 1, remove line 3

Page 1, line 4, remove "budget data contents" and replace "section 54-44.1-08" with
"subsection 8 of section 54-44.1-06"

Page 1, line 5, replace "budget reports to the legislative assembly" with "financing and leasing
information in budget data contents"

Page 1, line 11, after "biennium" insert ", including any borrowing from the Bank of North
Dakota"

Page 1, replace lines 15 through 24 with:

"SECTION 2. AMENDMENT. Subsection 8 of section 54-44.1-06 of the North
Dakota Century Code as effective after June 30, 2005, is amended and reenacted as
follows:

8. A detailed report on all state agency and institution financing or leasing arrangements for the current biennium and financing or leasing arrangements being recommended in the executive budget, including a list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium."

Page 2, remove lines 1 through 10

Renumber accordingly

January 27, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1304

Page 1, line 1, remove "provide for state agency and institution reports to the legislative assembly"

Page 1, remove lines 2 and 3

Page 1, line 4, remove "budget data contents; and to" and after "reenact" insert "subsection 8 of section 54-44.1-06 and"

Page 1, line 5, after the first "to" insert "financing and leasing information in budget data contents and"

Page 1, replace lines 7 through 19 with:

"SECTION 1. AMENDMENT. Subsection 8 of section 54-44.1-06 of the North Dakota Century Code, as effective after June 30, 2005, is amended and reenacted as follows:

8. A detailed report on all state agency and institution financing or leasing arrangements for the current biennium and financing or leasing arrangements being recommended in the executive budget, including a list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium. The report must contain information on the purpose of the arrangement, the original amount financed, current indebtedness, the length of the commitment, payment amounts, interest rates, and the source of funding used to make current and future payments."

Page 2, line 5, replace "10" with "8"

Renumber accordingly

Date: Jan 28, 2005
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1204

House Government Performance Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50540.0102

Action Taken DO PASS, AS Amended

Motion Made By Rep. Monson Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson	X		Rep. Glassheim	X	
Vice Chairman Skarphol	X				
Rep. Monson	X				

Total (Yes) 4 No 0

Absent 0

Floor Assignment Rep. Glassheim

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

Date: **February 8, 2005**
Roll Call Vote #: **1**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1304

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number **50540.0103**

Action Taken **DO PASS ASAMENDED**

Motion Made By **Rep Skarphol** Seconded By **Rep Monson**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	AB		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Guleson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **22** No **0**

Absent **1**

Floor Assignment **Rep Skarphol**

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

REPORT OF STANDING COMMITTEE

HB 1304, as amended, Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1304, as amended, was placed on the Sixth order on the calendar.

Page 1, line 1, remove "provide for state agency and institution reports to the legislative assembly"

Page 1, remove lines 2 and 3

Page 1, line 4, remove "budget data contents; and to" and after "reenact" insert "section 54-27-21.1, subsection 8 of section 54-44.1-06, and"

Page 1, line 5, after the first "to" insert "cost/benefit reports to the budget section for leasing arrangements, financing and leasing information in budget data contents, and"

Page 1, replace lines 7 through 19 with:

"SECTION 1. AMENDMENT. Section 54-27-21.1 of the North Dakota Century Code is amended and reenacted as follows:

54-27-21.1. Documentation of asset acquisitions and leases of state land or property - Report to budget section. Any state agency or institution that acquires the use of an asset as the result of a lease arrangement shall prepare a written analysis documenting the decision to acquire the use of the asset. The agency or institution shall make the analysis available to the auditor for review during the audit for the fiscal period during which the decision was made. Any state agency or institution that acquires the use of an asset with a value of fifty thousand dollars or more as the result of a lease arrangement or that leases state land or property shall prepare a written cost/benefit analysis supporting the leasing arrangement and present the analysis to the budget section of the legislative council.

SECTION 2. AMENDMENT. Subsection 8 of section 54-44.1-06 of the North Dakota Century Code, as effective after June 30, 2005, is amended and reenacted as follows:

8. A detailed report on all state agency and institution financing or leasing arrangements for the current biennium and financing or leasing arrangements being recommended in the executive budget, including a list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium. The report must contain information on the purpose of the arrangement, the original amount financed, current indebtedness, the length of the commitment, payment amounts, interest rates, and the source of funding used to make current and future payments."

Page 2, line 5, replace "10" with "8"

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1304

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1304**

Senate Appropriations Committee

☐ Conference Committee

Hearing Date **02/23/05**

Tape Number	Side A	Side B	Meter #
2	x		3285-4533

Committee Clerk Signature



Minutes: **Chairman Holmberg** opened meeting on HB 1304.

Representative Skarphol, District 2 appeared in support of HB 1304, he also gave an overview and background of the bill.

Sen. Andrist (3558) Would this also cover leased buildings?

Rep. Skarphol: Yes

Sen. Robinson: Regarding lease, in lines 13 and 14, lease a specialty piece of equipment is \$50,000 a bit low?

Sen. Mathern: Has there been an executive agency where they have not been written cost/benefit analysis?

Rep. Skarphol: We do not know, they are not required to do a cost/ benefit analysis. This allows Us to be participants in this process.

Sen. Grindberg: What is your feed back of the Round Table initiative?

Rep. Skarphol: We are looking for uniformity of recording.

Page 2
Senate Appropriations Committee
Bill/Resolution Number HB 1304
Hearing Date 02/23/05

Representative Monson, District 10 also appeared in support of HB 1304.

No questions were asked of Rep. Monson.

Sen. Mathern: I would like to hear from someone in the Governor' Office about this.

Pam Sharp. Director OMB, appeared to answer Sen. Mathern's Question. She stated that agencies do a cost/ benefit analysis for the most part.

Chairman Holmberg closed meeting on HB 1304.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1304

Senate Appropriations Committee

☐ Conference Committee

Hearing Date April 14, 2005

Tape Number

2

Side A

a

Side B

Meter #

1,589 - 1684

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1304 on leases.

Senator Christmann moved a DO NOT PASS on HB 1304, **Seantor Thane** seconded. A roll call vote was taken resulting in 11 yes, 3 no, and 1 absent. The motion carried and **Senator Christman** will carry the bill.

Chairman Holmberg closed the hearing.

Date 4/14
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1309

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

DNP
Christmann Seconded By Thane

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN		/	SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG			SENATOR MATHERN		/
SENATOR ANDRIST		/	SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes)

10

No

3

Absent

1

Floor Assignment

Christman

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

REPORT OF STANDING COMMITTEE (410)
April 14, 2005 11:25 a.m.

Module No: SR-69-8141
Carrier: Christmann
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1304, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1304 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1304

North Dakota University System
House Appropriations Government Performance Committee
Testimony on HB1304, January 18, 2005
Laura Glatt, Vice Chancellor for Administrative Affairs

The Roundtable on Higher Education, which resulted from legislative action during the 1999 Legislative Session, came to a significant conclusion when it studied the needs and opportunities of North Dakota and the role of higher education in meeting those needs. That conclusion was the University System could be much more responsive but was being overburdened with varied and conflicting expectations from the many stakeholders of higher education and excessive spending and reporting requirements. As a result the Roundtable made the following recommendation: "The SBHE, in conjunction with executive and legislative branches, develop a consistent set of limited financial reporting measurements to be used to measure the financial accountability of the campuses. Once established, these would replace all regularized and ad hoc fiscal reports submitted to the executive and legislative branches."

To implement this recommendation the Roundtable, with input from the 21 legislators who served on the Roundtable at that time, developed a set of proposed accountability measures to be used in determining how well the University System and the other key stakeholders were meeting the goals and expectations agreed upon and set forth in the Report of the Roundtable. These measures were revised slightly and then adopted by the 2001 Legislative Assembly. The resulting legislation became known as the "flexibility with accountability" legislation. It continues in effect today.

There is strong support by the current Roundtable members for continuation of the "flexibility with accountability" legislation. One of the recommendations from the June 15, 2004, Roundtable meeting was: "Continue the concept of flexibility with accountability in budgeting and in reporting requirements to further unleash the potential of the University System." That recommendation, through a survey of Roundtable members in October of 2004, received a score of 4.7 out of 5.0, which is equivalent to a 94% support rate.

Also at the June 15th meeting, the Roundtable members recommended: "Continue to use the agreed-upon accountability measures in place of different or additional accountability measures for the University System." This recommendation received a score of 4.4 out of 5, which is equivalent to a support rate of 88%.

The North Dakota Roundtable concept of forming a partnership and involving all of the key stakeholders of higher education in agreeing upon the expectations and outcomes of the University System has become a national model. The results-driven and outcomes-focused accountability system is a critical component of the model and a major factor in its success. The accountability system has a limited number of specific expected

outcomes which are directly linked to each of the six cornerstones (long-range goals and expectations). At present, there are 39 accountability measures.

I am sure that if you were to ask any and all of the campus presidents, they would tell you that they sincerely appreciate the increased flexibility that has been granted to them through the flexibility with accountability legislation. They will also tell you that they greatly appreciate reaching an agreement with the legislative and executive branches on a set of expectations and specific accountability measures for which they will each be held accountable. Finally, they would tell you (and might even beg you) to not go back to the old model of continuing to add reporting requirements. The campus presidents would much rather devote their limited resources to those activities which lead to improved services to students, increased access to education, investments in technology and enhancing the economy of the state. It is apparent from the last Roundtable meeting and the recent survey results that the Roundtable understands and supports devoting more resources into value-added ventures in place of additional reporting.

I am pleased to report the NDUS has just recently completed our fourth annual accountability measures report, which documents the University System's progress and accomplishments against the accountability measures agreed to and currently in statute. We will review those with the Appropriations Committee after crossover as part of our budget hearing. We can certainly make copies available to you sooner if you prefer. The accountability report clearly shows the campuses are making great strides toward the expectations and accountability measures which have been developed through the Roundtable process and adopted by the legislature and the State Board of Higher Education.

Although the legislation before you today does not require an approval process, it does create an additional reporting requirement. The University System and the Roundtable would view this as being inconsistent with the understanding reached and with intent of the flexibility with accountability legislation.

As you might imagine, the campuses have a significant number of financing and lease arrangements for facilities, equipment, and services. UND, for example, has over 50 of these arrangements, many funded from non-state general fund resources. The NDUS, in total, has well over 100, with many of these financed through our master lease agreement.

The University System strongly supports continuation of the flexibility with accountability legislation and, therefore, does not support HB1304. Alternatively, the University system respectfully requests that you exempt the NDUS from this reporting requirement.

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NORTH DAKOTA UNIVERSITY SYSTEM LEASES

Some of the leases that appear in the fiscal year ending June 30, 2004 North Dakota University System Annual Financial Report have rather unusual characteristics. Examples are described below:

1. NDSU**a) NDSU Research and Technology Park (RTP) lease #1**

- In November of 2000, RTP entered into a \$6.5 million lease with the city of Fargo to finance the construction of laboratory and research facilities and all equipment and furnishings. This is located on land owned by NDSU. RTP was granted a seventy five (75) year ground lease beginning on December 30, 1999. Part of the agreement between RTP and the city assigned all of RTP's obligations under the lease (including, but not limited to payment of basic rent and additional rent, maintenance and repairs, utilities, and insurance) to NDSU. Another portion of the agreement states that upon payment of all of the bonds, title reverts to the RTP.
- Debt service obligations for RTP total approximately \$11,153,000. Total payments made by NDSU to RTP based on the current operating agreement total approximately \$15,389,000 for a difference of \$4,236,000.
- NDSU leased the land this building is on to RTP for 5 cents per year. NDSU leases this land back for \$8,943 per year.

b) NDSU Research and Technology Park (RTP) lease #2

- In August of 2002, essentially the same legal and financial structure used to construct the building in lease #1 was used to construct a second research building. This building is also on land owned by NDSU. The new agreement was for \$20,450,000. At the end of the lease, title to the building reverts to RTP, if they pay \$1.
- Debt service obligations for RTP total approximately \$39,620,000.
- NDSU payments to RTP could total approximately \$41,277,000 for a difference of approximately \$1,657,000.
- NDSU leased the land to RTP for 10 cents per year and leases the land back for \$16,548 per year.

c) NDSU Equine Science Center

- In January of 2003, NDSU and the NDSU Development Foundation entered into a ten-year lease agreement with an option for an additional ten-year lease to facilitate the building of an Equine Science Center. NDSU pays rent to the Foundation for use of the premises. The land the building is on is not owned by NDSU. It is owned by NDSU Development Foundation.
- The amount of the rent is tied to the debt service retirement plus necessary trustee fees, insurance, and taxes. NDSU also pays all water, sewer, heat, electricity, and other utility bills (except telephone). The amount of bonds issued by Cass County for the NDSU Development Foundation was \$4,355,000.
- At the end of the lease, NDSU will not own the facility unless they exercise their option to purchase under section 6.2 of the lease.

2. UND

- In July of 2002, UND Foundation issued tax exempt lease revenue bonds totaling approximately \$8,595,000 on behalf of UND to: finance construction of an office building for EERC; renovate current EERC building; finance capitalized interest; and pay costs of issuance of the bonds. These buildings are on land owned by UND. The Foundation was granted a ground lease which extends through June 30, 2027.
- UND and UND Foundation entered into a lease whereby the foundation leases certain property to UND. The lease payments will be sufficient to cover principal and interest on the bonds when due.
- At the end of the lease period, the Foundation will own the buildings unless UND exercises its option to purchase the leased property.