

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### HIGHER EDUCATION COMMITTEE

Thursday and Friday, June 10-11, 2010

Roughrider Room, State Capitol

Bismarck, North Dakota

Representative Bob Skarphol, Chairman, called the meeting to order at 8:30 a.m.

**Members present:** Representatives Bob Skarphol, Lois Delmore, Kathy Hawken, Brenda Heller, Dennis Johnson, Nancy Johnson, RaeAnn G. Kelsch, Joe Kroeber, Bob Martinson, Darrell D. Nottestad, Ken Svedjan, Clark Williams; Senators Tim Flakoll, Ray Holmberg, Dave Nething, Larry J. Robinson, Tom Seymour

**Members absent:** Representatives Mark A. Dosch, Kenton Onstad; Senators John M. Andrist, Tony S. Grindberg, Karen K. Krebsbach, Elroy N. Lindaas, David O'Connell

**Others present:** Jim W. Smith, Legislative Council, Bismarck

See [Appendix A](#) for additional persons present.

**It was moved by Senator Robinson, seconded by Senator Seymour, and carried on a voice vote that the minutes of the March 31, 2010, and April 1, 2010, meetings be approved as distributed.**

Chairman Skarphol announced the following dates for future committee meetings:

- July 8, 2010.
- August 16, 2010.
- September 13-14, 2010.
- October 7, 2010.

#### HIGHER EDUCATION STUDY

Mr. John Grettum, Audit Manager, College and University Audit Section, State Auditor's office, presented the State Auditor's office internal control and compliance report on the audit of the general purpose financial statements included in the June 30, 2009, annual financial report for the North Dakota University System. He said the prior audit recommendations in the following areas have not been implemented:

- Proper use of account codes, funds, fund groups, and functions available on PeopleSoft to comply with generally accepted accounting principles.
- Preparation of financial statements in accordance with generally accepted accounting principles.
- Comprehensive fraud and control risk assessments and establishment of appropriate internal controls.
- Segregation of duties relating to inventory.

Mr. Grettum said the audit report identifies five current audit recommendations relating to:

- Noncompliance with generally accepted accounting principles by the North Dakota State University Development Foundation on its financial statements.
- Lack of internal auditors at nine campuses and lack of reporting to the State Board of Higher Education by University of North Dakota (UND) and North Dakota State University (NDSU) internal auditors.
- The need for improvement in imaging application procedures at Bismarck State College and UND.
- Lack of timely legislative approval of additional construction costs for presidents' houses at UND and NDSU.
- Noncompliance with criminal history background checks for new employees at Dickinson State University and UND.

A copy of the audit report presented by Mr. Grettum is on file in the Legislative Council office.

In response to a question from Representative Skarphol, Mr. Grettum said penalties are not assessed for failure to implement prior audit recommendations. He said most audit recommendations should be implemented within one year. He said he would provide information regarding policies in other states for state agencies that fail to implement audit recommendations.

In response to a question from Representative Kelsch, Mr. Grettum said the State Auditor's office prepares a report of material audit findings, and the report is presented to the Appropriations Committees of each Legislative Assembly.

In response to a question from Representative Skarphol, Mr. Grettum said higher education institutions have a wide array of financial activities to account for. He said the financial activities of higher education institutions are generally more complex than most other state agencies.

In response to a question from Representative Delmore, Mr. Grettum said most state agencies are able to respond to audit findings in a timely manner. He said changes in financial policies and procedures of the University System require the coordination of 11 institutions and the University System office.

In response to a question from Representative Skarphol, Mr. Grettum said certain higher education

policies are not consistent across all institutions. He said policies should be uniform across all institutions to ensure a systematic and consistent approach for higher education.

In response to a question from Senator Holmberg, Mr. Grettum said it is important for legislators to be aware of the consistency of policies between campuses, the activities of institution foundations, and transactions between institutions and related entities.

In response to a question from Representative Hawken, Mr. Grettum said the University System has improved the process of receiving and monitoring grants.

Representative Hawken said certain recommendations made by the Higher Education Roundtable have worked well. She said changes should not be made to the current process of allowing institutions to receive and expend grant funding in a timely manner.

In response to a question from Senator Nething, Mr. Grettum said additional oversight may be necessary for institution foundations that conduct activities besides raising funds for an institution. He said some institution foundations are constructing buildings for institutions, entering leases with institutions, and issuing bonds for capital projects.

In response to a question from Senator Flakoll, Mr. Grettum said leases between institutions and institution foundations are unique because the entities are related parties. He said auditors have concerns when institution representatives also serve as representatives of an institution foundation and transactions occur between the entities.

In response to a question from Representative Skarphol, Mr. Grettum said some states have limited the involvement of institution foundations in institution activities.

Ms. Laura Glatt, Vice Chancellor for Administrative Affairs, North Dakota University System, presented information regarding the University System response to the audit recommendations ([Appendix B](#)). She said several actions have been taken recently to improve accountability and transparency. She said the State Board of Higher Education is reviewing an employee code of conduct policy for all University System employees.

In response to a question from Senator Holmberg, Ms. Glatt said a provision contained in the employee code of conduct policy requires employees to report any suspected fraud. She said she would provide a copy of the policy to committee members.

Representative Hawken expressed concern that adding additional employees may not be the solution to solving internal control problems at institutions. She said training should be provided to existing employees to ensure compliance with policies.

Representative Martinson said it is important for members of the State Board of Higher Education and employees of the University System office to provide oversight for major activities and decisions of institutions.

In response to a question from Representative Kelsch, Mr. William G. Goetz, Chancellor, North Dakota University System, said the University System office is reviewing the feasibility of adding an internal audit position. He said the cost of the internal audit position would be shared among the institutions, and the position would report to the State Board of Higher Education. He said a facilities project management position may also be added to the University System office to oversee capital projects at campuses.

In response to a question from Senator Flakoll, Ms. Glatt said most campuses do not utilize a construction manager for building projects. She said the addition of a facilities project manager may assist campuses to manage project cost and scope on building projects.

Mr. Gordy Smith, Audit Manager, Performance Audit Section, State Auditor's office, presented the University System capital projects performance audit dated April 5, 2010. He said the objective of the performance audit was to determine if University System capital projects are adequately monitored.

Mr. G. Smith said the performance audit contains 18 recommendations. Based on the performance audit, he said, the State Auditor's office determined:

- Capital projects within the University System are not adequately monitored.
- The University System does not have a unified system for capital projects.
- Monitoring of compliance with State Board of Higher Education policies relating to capital projects is minimal.
- North Dakota State University and UND have not complied with capital project requirements in state law and State Board of Higher Education policies.
- Dickinson State University did not comply with capital project requirements in State Board of Higher Education policies.

A copy of the audit report presented by Mr. G. Smith is on file in the Legislative Council office.

In response to a question from Representative Martinson, Mr. G. Smith said some institutions have entered capital leases with institution foundations to finance building projects. He said the use of capital leases may allow institutions to proceed with building projects without obtaining approval from the State Board of Higher Education or Legislative Assembly.

In response to a question from Representative Skarphol, Mr. G. Smith said state information technology projects are monitored to a greater extent than building projects. He said agencies are required to provide status reports on information technology project costs and timelines.

In response to a question from Senator Flakoll, Mr. G. Smith said some higher education capital projects cost more than projected due to changes made during project construction.

Chairman Skarphol asked Mr. G. Smith to prepare a document for the committee that details the different methods of financing higher education capital

projects, including approval requirements for each method.

In response to a question from Senator Nething, Mr. G. Smith said a performance audit is an indepth review of an issue and is not limited to determining compliance with the law. He said the scope of this performance audit was to determine if University System capital projects were adequately monitored. He said one audit finding was that the State Board of Higher Education did not adequately review and discuss capital projects prior to project approval.

Senator Nething expressed concern that portions of the performance audit are subjective in nature.

Dr. Robert Kelley, President, University of North Dakota, Grand Forks, provided comments regarding the performance audit of University System capital projects. He said UND intends to be in full compliance with State Board of Higher Education policy for future projects.

In response to a question from Senator Flakoll, Ms. Alice Brekke, Vice President of Finance and Operations, University of North Dakota, Grand Forks, said UND has created a fraud hotline. Ms. Brekke said the fraud hotline is administered by an outside entity that receives calls regarding suspected fraud at the university. She said information regarding the call is provided to the institution for further investigation.

In response to a question from Senator Nething, Mr. Goetz said the State Board of Higher Education has obtained the services of an individual to conduct an investigation to determine the individuals responsible for making the decisions on the capital projects that violated the law.

Mr. Bruce Bollinger, Vice President for Finance and Administration, North Dakota State University, Fargo, provided comments regarding the performance audit on University System capital projects. He said the university agrees with all audit recommendations made. He said a business process review is currently being conducted for the university's facilities division. He said NDSU intends to be in full compliance with State Board of Higher Education policies for future projects.

In response to a question from Representative Skarphol, Mr. Bollinger said the NDSU Development Foundation will no longer be involved in managing capital projects.

In response to a question from Representative Skarphol, Mr. Bollinger said he would provide information to the committee regarding the amount of funding provided by the NDSU Development Foundation to NDSU by major program area.

In response to a question from Representative Kelsch, Mr. Bollinger said the newly hired president of NDSU understands the issues facing the institution. He said plans are in place to address the perception of the institution and to restore accountability.

In response to a question from Representative Skarphol, Ms. Glatt said the University System will be included in a new transparency program being developed by the Office of Management and

Budget (OMB) to make available information regarding expenditures by state agencies.

In response to a question from Representative Martinson, Mr. Duaine Espegard, State Board of Higher Education, Grand Forks, said most capital projects at institutions are completed without major issues. Mr. Espegard said University System office staff along with members of the State Board of Higher Education review capital projects prior to approval.

In response to a question from Representative Kelsch, Mr. Espegard said the State Board of Higher Education has final authority over actions of the institutions. He said consequences have been established for institution presidents that fail to follow State Board of Higher Education policies. He said he favors a job performance evaluation program for campus presidents that links pay and employment status to the performance evaluation.

In response to a question from Representative Svedjan, Mr. Espegard said institutions need to have similar policies and procedures in order to be a unified system of higher education. He said the State Board of Higher Education is working to ensure that future actions of institutions to circumvent board policy will result in the appropriate disciplinary action.

In response to a question from Representative Skarphol, Mr. Espegard said institutions should not have multiple years of uncorrected audit recommendations. He said uncorrected audit recommendations will be considered in future performance evaluations of University System personnel.

The committee recessed for lunch at 12:10 p.m. and reconvened at 1:00 p.m.

Mr. Claus Lembke, State Board of Higher Education, provided comments regarding the audits of the University System. He said new policies and procedures have been developed in response to audit findings. He said the board is concerned with the lack of compliance with audit recommendations.

Ms. Glatt presented information regarding State Board of Higher Education policies for capital projects ([Appendix C](#)). She said the policies address the types of projects that require board approval and which costs must be included in a project budget.

In response to a question from Representative N. Johnson, Ms. Glatt said the cost of institutional personnel directly working on a project must be included in the total project cost. She said the cost of administrative oversight is not included in the total project cost.

In response to a question from Representative Skarphol, Mr. Pat Seaworth, General Counsel, North Dakota University System, said State Board of Higher Education policy provides that an employee who violates board policy is subject to dismissal.

Representative Kelsch said actions by campus officials such as dividing a capital project into smaller multiple projects to avoid approval processes give citizens a negative image of higher education.

Mr. Goetz presented information regarding institution foundations ([Appendix D](#)). He said

institution foundations are legally separate and independent organizations. He said the foundations have independent governing boards, but representatives of the institution may serve on the foundation boards.

Mr. Seaworth said some institutions have several foundations that support specific departments or areas of the institution. He said State Board of Higher Education policy requires that institutions have written agreements with foundations that include a description of the services and benefits the institution and foundation provide each other.

Ms. Glatt presented information regarding financial relationships between institutions and foundations ([Appendix E](#)). She said several institutions have building leases or other agreements with institution foundations.

Ms. Glatt presented a schedule detailing the status of University System capital projects ([Appendix F](#)). She said the schedule includes projects over \$250,000 that were approved by the State Board of Higher Education.

In response to a question from Representative Delmore, Ms. Glatt said institution budget requests consider utility costs of new buildings once the buildings are owned by the institution.

Ms. Glatt presented information regarding the history of the University System office, including staffing levels and staff duties ([Appendix G](#)). She said the number of University System office employees has increased from 22 full-time equivalent (FTE) positions during the 2005-06 fiscal year to 28 FTE positions during the 2009-10 fiscal year.

Mr. Goetz said the vice chancellors and the institution presidents are members of the chancellor's cabinet. He said the chief information officer of the University System was recently added as a member of the cabinet.

Ms. Glatt presented information regarding tuition collections, enrollment projections, expenditures, University System employees, debt at each campus and related financial measures, and capital building leases at each campus ([Appendix H](#)). She said unique campus missions may cause differences between campuses in the amount of funding used in each major functional area.

In response to a question from Representative Skarphol, Ms. Glatt said the majority of funding for student instruction is provided from state general fund appropriations. She said program fees may also be used for specific program costs.

Dr. Kelley said research conducted by professors is important to the education process. He said knowledge gained by professors while conducting research is used in classroom instruction, which provides a better quality education.

In response to a question from Representative Skarphol, Ms. Brekke said some funding received from grants may be used for certain indirect costs.

In response to a question from Representative Skarphol, Ms. Glatt said most State Board of Higher

Education policies apply to all institutions. She said some policies are not the same at each campus due to different campus missions.

In response to a question from Representative Skarphol, Ms. Glatt said the amount of debt at institutions is increasing. She said many institutions have recently issued revenue bonds for housing-related projects.

Ms. Glatt presented information regarding the long-term finance plan of the University System, including the use of peer institutions ([Appendix I](#)). She said institutions' funding levels are currently at 48 percent to 95 percent of their peer institutions.

In response to a question from Representative Kelsch, Ms. Glatt said peer funding percentages can change quickly due to enrollment patterns. She said equity funding provided to campuses is weighted to provide more funding for campuses furthest from their peers.

Dr. Michel G. Hillman, Vice Chancellor for Academic and Student Affairs, North Dakota University System, presented information regarding the feasibility of limiting enrollment at institutions ([Appendix J](#)). He said limiting enrollment at certain institutions may not increase enrollment at other institutions. He said some states find it easier to manage enrollment by using admissions standards.

Ms. Glatt presented a report regarding the salaries of high school teachers and college professors, the number of college students enrolled in distance education classes, and the number of high school students taking college courses for credit ([Appendix K](#)).

Representative Delmore said it is important to consider years of experience when reviewing salary comparisons between high school teachers and college professors.

In response to a question from Representative Delmore, Dr. Hillman said some higher education institutions do not focus efforts on providing dual-credit courses for high school students.

Chairman Skarphol asked the Legislative Council staff to provide information regarding legislation that authorizes campuses to offer dual-credit courses.

Chairman Skarphol distributed a memorandum entitled [Higher Education Funding](#). The memorandum provides information regarding higher education funding as a percentage of state general fund appropriations in various states.

Ms. Glatt said it is important to consider per student funding for higher education when comparing higher education funding between states. She said consideration should also be given to the amount of funding provided by the state versus students.

Chairman Skarphol asked the Legislative Council staff to update the memorandum on higher education funding to include resident and nonresident student enrollment in each state listed.

In response to a question from Representative Svedjan, Ms. Glatt said efficiency in higher education is affected by demands to offer specific programs,

meet workforce needs, and have better-prepared students.

The Legislative Council staff distributed a summary report filed with the Legislative Council office regarding the distribution of grants to tribally controlled community colleges to offset the impact of the enrollment of nonbeneficiary students ([Appendix L](#)). The Legislative Council staff said the full report includes copies of institution audit reports, documentation of the enrollment status of each student for which a grant is requested, and detail regarding the expenditures of the grant funds. A copy of the full report is on file in the Legislative Council office.

Representative Nottestad suggested the committee receive information regarding completion rates of students for which tribal college assistance grant funding is requested.

Senator Nething expressed concern regarding the audits of the tribal colleges. He suggested the committee receive information regarding the actions taken to correct the audit deficiencies.

The committee recessed at 4:00 p.m. and reconvened at 8:30 a.m. on Friday, June 11, 2010.

Mr. Goetz provided comments regarding the University System budget request for the 2011-13 biennium. He said an important part of the budget request is to maintain student affordability.

In response to a question from Representative Nottestad, Mr. Goetz said the University System is working with various entities to address the mental health issues of military veterans.

Ms. Glatt presented a schedule detailing the University System's 2011-13 operating budget request ([Appendix M](#)). She said the State Board of Higher Education has approved the operating budget request and has ranked each item in order of importance. She said the 2011-13 general fund operating budget request is \$662,644,692, which is \$128,084,591 more than the 2009-11 budget of \$534,560,101.

In response to a question from Senator Holmberg, Ms. Glatt said OMB will revise the budget request to reflect the executive budget recommendation for health insurance and salary increases.

In response to a question from Representative Skarphol, Ms. Glatt said the equity funding distribution method for campuses is based on the funding difference between campuses and peer institutions. She said the minimum equity distribution for a campus is \$250,000.

In response to a question from Representative Skarphol, Ms. Glatt said the UND School of Medicine and Health Sciences does not have its own peer institutions. She said UND is compared to other institutions that have a medical school.

In response to a question from Representative Skarphol, Ms. Glatt said the budget request for student affordability is based on the amount of funding needed to limit tuition increases to 4 percent at four-year institutions and to have no tuition increase at two-year institutions.

In response to a question from Representative Skarphol, Ms. Glatt said account coding is needed for financial transactions. She said a certain amount of subjectivity exists when coding transactions.

In response to a question from Representative Kroeber, Ms. Glatt said the student ConnectND fee is \$81 per semester.

In response to a question from Senator Holmberg, Ms. Glatt said Lake Region State College received a contingent general fund appropriation for a wind tower project. She said the general fund appropriation may be used if it is determined that funding from the American Recovery and Reinvestment Act of 2009 is not available for the project. She said the college has not been able to secure a federal funding source yet.

Mr. Goetz said a determination needs to be made when the contingent general fund appropriation may be used for the Lake Region State College wind tower project. He said it does not appear that federal funding will be available for the project.

In response to a question from Representative Skarphol, Ms. Glatt said she will provide additional information regarding the amount of funding provided for ConnectND staff positions and for student placement in the Kansas State University veterinary medical education program.

In response to a question from Senator Nething, Ms. Glatt said the priority of budget request items is based on the strategic plan of the State Board of Higher Education. She said the funding included in the budget request will be used to meet the goals and objectives of the strategic plan.

Chairman Skarphol asked the Legislative Council staff to provide information to the committee regarding the UND School of Medicine and Health Sciences RuralMed program.

In response to a question from Senator Nething, Ms. Glatt said she would provide additional information to the committee regarding the number of new FTE positions included in the 2011-13 University System budget request.

In response to a question from Representative Svedjan, Ms. Glatt said a new internal audit staff position may be added to the University System office. She said funding for additional internal audit staff positions at institutions is not included in the 2011-13 budget request.

Ms. Glatt provided an overview of the 2011-13 capital projects request for the University System ([Appendix N](#)). She said the State Board of Higher Education will review each institution's capital project requests and prioritize the projects. She said the chancellor is recommending that 15 projects be prioritized that require \$127,520,000 of funding from state sources.

In response to a question from Representative Williams, Ms. Glatt said each campus generally submits two capital project requests to the State Board of Higher Education to be prioritized in the University System capital project budget request. She said UND and NDSU are allowed to submit three

capital project requests for consideration by the State Board of Higher Education.

In response to a question from Representative Skarphol, Ms. Glatt said the 2011-13 University System capital projects budget request will include requests for specific small- and medium-size projects. She said a deferred maintenance funding pool has been provided for these types of projects in prior budget requests.

In response to a question from Representative Kroeber, Ms. Glatt said funding from the American Recovery and Reinvestment Act of 2009 was used for the Swain Hall project at Minot State University and for the Education Building project at UND.

In response to a question from Senator Holmberg, Ms. Glatt said additional planning has been completed for a joint University System and UND information technology building. She said the additional information received on the project has increased the estimated cost of the building by \$6 million, from \$11 million to \$17 million.

The meeting was adjourned at 11:30 a.m. subject to the call of the chair.

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Brady A. Larson  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:14