

2011 HOUSE EDUCATION

HB 1231

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1231  
01/19/11  
13027

☐ Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB

**Rep. Bob Skarphol:** Sponsor. The introduction of this bill was not at the request of anyone. Over the interim I had an opportunity to visit EERC and get to know several of the people that work there. I have a great deal of respect for people that work for the EERC, if they are unable to raise the money to pay their salary, they don't have a job. That facility is unique in ND. Anyone that wants to do research has to find that grant money to do it and pay the costs of doing that research. They have received very little state general fund dollars if any. Senator Wardner and I found there was concern about utilization of property. With potential for the new administrative facility more of property would be utilized and would begin to limit potential expansion of that facility. They employ around 300 people. The old Ralph Englestad sits adjacent to this facility. It is a building the university has considered knocking down. Contingency is important to the EERC. Having it contiguous is important to these folks. I think the EERC should have more input into the utilization of the areas around them. I think it is important to have a conversation about this.

**Chairman RaeAnn Kelsch:** Questions?

**Rep. Phillip Mueller:** An interesting part of the bill is that we are not doing this after 2012. Can you explain?

**Rep. Bob Skarphol:** The idea was to have some discussion and hopefully have a resolution to the issue by that time.

**Chairman RaeAnn Kelsch:** It is an interesting concept. The one question that I have is are we setting a new precedent that states what campuses should and should not do for building and where they should and shouldn't build. Typically we've given them the authority to build and given them some money, but we don't usually go in and be more specific. Is this going to be a new precedent?

**Rep. Bob Skarphol:** The EERC is unique and the contiguousness of the property they need to have is very important to them. You are right about it being a precedent but I hope it's seen as temporary nature in nature.

**Rep. Karen Rohr:** Did they express no shared governance process in place at all for them to express any comments of input on any decision that's made like at the university level?

**Rep. Bob Skarphol:** The conversation I had wasn't with the leadership of the EERC, so I can't speak about what conversation has went on about this issue. It was an expression of concern from the employees.

**Rep. Bob Hunskor:** Is this something that is not workable between the university president and the director of the EERC?

**Rep. Bob Skarphol:** I'm not implying their relationship isn't workable. I'm basing this off the conversations I had with the workers and thought we needed to have discussion on the issue.

**Chairman RaeAnn Kelsch:** Thank you. Support? Opposition?

**Bill Goetz – Chancellor, University System:** Opposition. Testimony. Attachment.

**Chairman RaeAnn Kelsch:** Questions?

**Rep. Phillip Mueller:** Have you in your tenure run across anything similar in our campuses across the state?

**Bill Goetz – Chancellor, University System:** In my tenure I do not recall a similar issue.

**Chairman RaeAnn Kelsch:** Questions? Opposition?

**Robert Kelley – President, UND:** I will say that it is imperative for the CEO of the university to deal with all university issues including the management of land, buildings, and research and funding. It should not restrict the CEO from reaching decisions and implementing those decisions. I will add that the EERC is one of our respected research centers. It is the only center whose director reports directly to the president of the university. All research faculty are responsible for generating grants and contract in support of that scientific research. I speak in opposition because this bill would require the CEO to seek approval from a subordinate officer. It's not good business practice.

**Chairman RaeAnn Kelsch:** Questions? I have one out of curiosity. What is the relationship like between you and the director of the EERC?

**Robert Kelley – President, UND:** We have a very professional and cordial relationship.

**Rep. Phillip Mueller:** Have there been discussions surrounding the area we are talking about here? Have you been talking about the EERC utilization?

**Robert Kelley – President, UND:** Yes. The issue actually came up before I was a president. It is the east side of campus and it houses the EERC and the athletic programs. During previous conversations it was very clear that the EERC would take about half of the

property and we had planned for that activity to be on the west side. That is part of the university's master plan. We are moving forward with the plan to meet all the needs.

**Chairman RaeAnn Kelsch:** Questions? Opposition? Neutral testimony? We will close the hearing on HB 1231.

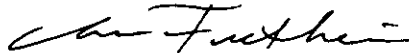
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1231  
01/31/11  
13737

☐ Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB 1231. This basically states that no occupation can be taken over by the Ralph Engelstad Arena without including the EERC. I have requested from President Kelly his five year plan where he stated this discussion had already happened with the EERC and that they were looking at the portion of the redevelopment of that area where they would have a wellness center or something and EERC could expand below that. This is a case where the university president would be yielding to a subordinate. I think we will be hearing more important governance issues throughout the week. I think that the message was heard loud and clear. I did request the information from President Kelly and if you would rather wait to see that we can do that.

**Rep. Mark Sanford:** I had a chance to visit with the architect that is part of the master plan and he said that piece of property was divided between the two interests and there was space for both of them.

**Rep. Joe Heilman:** Motion to do not pass.

**Rep. Mark Sanford:** Second.

**Chairman RaeAnn Kelsch:** Discussion?

**Rep. Karen Rohr:** Am I hearing this that there is a disgruntled employee who doesn't feel that he/she did not feel that their viewpoint had been met and if so, then what is our obligation to a that state employee?

**Chairman RaeAnn Kelsch:** I think I might be a misunderstanding of what the intent is. It's my understanding that it was not the director but it is an employee that showed dissatisfaction.

**Rep. Karen Rohr:** So in other words this was just to bring it to the forefront?

**Chairman RaeAnn Kelsch:** During the testimony President Kelly said it was already dealt with just because of the fact that they have this in their master plan. You have to understand that the EERC in Grand Forks is in a much different situation than say that of NDSU. The EERC in Grand Forks is landlocked. It doesn't really make sense moving them

off campus because of the cost and it would be a huge cost. You have to be able to work with them because the EERC is important to the campus. Further questions? We will take roll on a do not pass on HB 1231. Motion carries. We will close on HB 1231.

**12 YEAS 2 NAYS 1 ABSENT**

**DO NOT PASS**

**CARRIER: Rep. Joe Heilman**

Date: 1-31-11  
Roll Call Vote #: \_\_\_\_\_

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1231

House 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 REP. HEILMAN Seconded By REP. SANFORD

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Heilman	X		Rep. Mock	X	
Rep. Heller		X	Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust					
Rep. Sanford	X				
Rep. Schatz		X			
Rep. Wall	X				

Total (Yes) 12 No 2

Absent 1 - REP. RUST

Floor Assignment REP. HEILMAN

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

**REPORT OF STANDING COMMITTEE**

**HB 1231: Education Committee (Rep. R. Kelsch, Chairman)** recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1231 was placed on the Eleventh order on the calendar.



**2011 TESTIMONY**

**HB 1231**

# TESTIMONY ATTACHMENT

## House Bill 1231

Madam Chair and Members of the House Education Committee.

In my capacity as Chancellor of the North Dakota University System I appear before this Committee in opposition to House Bill 1231.

House Bill 1231 places limitations upon the authority of the President of the University of North Dakota which is specifically focused upon actions that may or may not be taken in regard to land use on the University of North Dakota campus.

There are essential points you as committee members must take into consideration relative to the management and leadership principles of any organization private or public.

Specific to the North Dakota University System, policy determines clearly matters of governance and organization. SBHE Policy 300 Section 305.1 Colleges and University President's Authority and Responsibilities state:

1. The president is the chief executive officer of the institution and a member of the Chancellor's executive staff.
2. The Board delegates to the president of each institution full authority and responsibility to administer the affairs of the institution in accordance with Board policies, plans, budgets and standards, including the management and expenditure of all institutional funds, within budgetary and other limitations imposed by law or by the Board.

3. Each president is to be accountable for all funds, property, equipment, and other facilities assigned or provided to the institution.

My citing to you reference to SBHE policy is important. More importantly this legislation should bring to our attention the very fundamentals we seek of those in a leadership role and their capacity. We should not commence down a path of minimizing management expectations of the President of the University of North Dakota nor providing an environment throughout the System of those principles that provide strength of leadership for all CEO's within the NDUS.

I ask for a DNP of HB 1231.