

# NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

## HIGHER EDUCATION COMMITTEE

Tuesday, July 12, 2005  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Ray Holmberg, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Ray Holmberg, Tim Flakoll, Tony Grindberg, Ed Kringstad, Elroy N. Lindaas, David O'Connell; Representatives Ole Aarsvold, Larry Bellew, Lois Delmore, Mary Ekstrom, Kathy Hawken, Andrew G. Maragos, Bob Martinson, Darrell D. Nottestad, Mark S. Owens, Earl Rennerfeldt, Steven L. Zaiser

**Members absent:** Senators Nicholas P. Hacker, Dave Nething; Representatives Tom Brusegaard, Nancy Johnson

Senator Hacker informed the staff he was unable to attend the meeting because he was out of state on other legislative business, attending the BILLD Conference in Madison, Wisconsin.

**Others present:** See attached appendix

### SUPPLEMENTARY RULES OF OPERATION AND PROCEDURE

Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, Legislative Council, reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council](#).

### STUDY OF HIGHER EDUCATION FUNDING AND ACCOUNTABILITY

Chairman Holmberg said the Higher Education Committee has been assigned the study of higher education funding and accountability directed by Section 23 of Senate Bill No. 2003. He said the Higher Education Committee will assist with the development of a request for proposal and list of potential consultants for the study; however, the Legislative Council has retained the authority to select a consultant related to the appropriation contained in Section 24 of Senate Bill No. 2003. He said the consultant selected will provide progress reports and a final report to the Higher Education Committee.

The Legislative Council staff presented a background memorandum entitled [Study of Higher Education Funding and Accountability - Background Memorandum](#) relating to the committee's assigned responsibility to study higher education funding and accountability as directed by Section 23 of Senate Bill No. 2003 and the responsibility to receive reports

from the State Board of Higher Education on the status of the board's review of the long-term financing plan, pursuant to Section 17 of Senate Bill No. 2003.

The Legislative Council staff reviewed previous legislative higher education studies and related legislation, information regarding the long-term financing plan and resource allocation model adopted by the State Board of Higher Education, and information regarding the annual higher education performance and accountability report required by North Dakota Century Code (NDCC) Section 15-10-14.2.

The Legislative Council staff presented the following proposed study plan for the committee's consideration relating to its study of higher education:

1. Provide input for development of a request for proposal and list of potential consultants relating to the funding and accountability study.
2. Receive consultants' proposals and provide input regarding the selection of a study consultant.
3. After an independent consultant has been selected by the Legislative Council, receive progress reports and a final report, including findings and recommendations from the consultant regarding the Higher Education Roundtable recommendations and goals and objectives of the University System, the long-term financing plan for the University System, the University System's prioritization of higher education funding, and the accountability mechanisms.
4. Receive information from the State Board of Higher Education, the institutions of higher education, higher education students, private and tribal higher education institutions, the executive branch, business, and industry regarding the consultant's findings and recommendations.
5. Receive periodic reports from the State Board of Higher Education on the status of the board's review of the long-term financing plan, pursuant to Section 17 of Senate Bill No. 2003.
6. Conduct a budget tour and site visit of the higher education institutions as assigned.

7. Receive testimony from other interested persons regarding the committee's study of higher education.
8. Develop recommendations and any bill drafts necessary to implement the recommendations.
9. Prepare a final report for submission to the Legislative Council.

In response to a question from Senator Grindberg regarding potential meetings of the Higher Education Roundtable, Chairman Holmberg said a Higher Education Roundtable may be convened in February 2006 to receive comments regarding initial findings and recommendations of the consultant selected for the study of higher education funding and accountability and in fall 2006 to receive comments relating to the consultant's final report.

Senator Grindberg asked that committee members receive an executive summary of the actions of the Higher Education Roundtable during the previous legislative interims. The legislative budget analyst and auditor said the background memorandum included detailed information but an executive summary could be prepared.

Representative Martinson said it will be important for the committee to consider a new funding formula for the North Dakota University System.

The legislative budget analyst and auditor presented a draft request for proposal for the study of higher education funding and accountability, a copy of which is on file in the Legislative Council office. He said the draft was based on the provisions in Section 23 of Senate Bill No. 2003 and legislator input. The committee received the draft prior to the meeting for its review.

The draft provides that the study will include a comprehensive review of the areas listed below, identify findings, and make recommendations to be implemented by the North Dakota University System, State Board of Higher Education, and the higher education institutions and to assist the Legislative Assembly and the executive branch in the monitoring of and budgeting for the North Dakota University System:

1. Evaluate previous higher education recommendations, including:
  - a. Status of implementation of the recommendations.
  - b. Strengths and weaknesses of the recommendations as implemented.
  - c. Appropriateness of the recommendations to meet the expectations and needs of students, citizens, higher education entities, and the Legislative Assembly.
2. Evaluate the long-term financing plan for the North Dakota University System and determine:
  - a. Appropriateness of the peer institutions selected and whether to update peer institution funding comparisons.

- b. If the long-term financing plan is realistic, based on historic funding increases and forecasted economic growth in North Dakota.
  - c. If the current State Board of Higher Education method of setting funding priorities is appropriate.
  - d. If the current method of determining and evaluating equity among the institutions is appropriate.
  - e. If the long-term financing plan adequately addresses the use of various sources of revenues and allocations and the need for funding initiatives at the state's institutions.
3. Describe the state of higher education in the United States and how North Dakota compares in finance and performance, national higher education trends, other states' per capita higher education funding, and trends in funding higher education from non-state revenue sources.
  4. Evaluate the accountability measures and benchmarks in terms of appropriateness and adequacy.
  5. Provide findings, identify alternatives and options, and make recommendations for the state of North Dakota to proceed with appropriate implementation of roundtable recommendations, the long-term financing plan, and the accountability measures.

The legislative budget analyst and auditor said the draft anticipates proposals being submitted by August 24, 2005, with consultant selection the week of September 6, 2005.

**It was moved by Senator O'Connell, seconded by Representative Nottestad, and carried on a voice vote that the Higher Education Committee adopt the draft request for proposal document as a working document, subject to further committee changes.**

Ms. Pam Kostelecky, President, State Board of Higher Education, Dickinson, commented on the committee's study of higher education funding and accountability and the State Board of Higher Education review of the long-term financing plan. A copy of her comments is on file in the Legislative Council office. In July 2004, she said, the State Board of Higher Education adopted an objective to study the long-term financing plan, including the peer institutions; therefore, the board looks forward to coordinating its study efforts with those of the committee. She said the board has invited legislative leadership and Appropriations Committee chairmen to join the board at their annual retreat on July 13, 2005. She said the board is looking forward to working with the legislature to find proactive and reasonable solutions for the concerns raised during the 2005 Legislative Assembly.

Dr. Robert L. Potts, Chancellor, North Dakota University System, commented on the committee's study of higher education funding and accountability and the State Board of Higher Education review of the long-term financing plan. A copy of his comments is on file in the Legislative Council office. He said the request for proposals for the study of higher education funding and accountability should be written to require the consultant to obtain broad input from State Board of Higher Education members, campus presidents, other members of the Legislative Assembly, and Higher Education Roundtable members. He said the board would appreciate being allowed to review the consultants' proposals received and to offer comments to the Higher Education Committee or the Legislative Council concerning the proposals before a consultant is selected.

Representative Martinson suggested the request for proposal require the consultant to develop an alternative method of funding the North Dakota University System. He said the consultant should also provide a comparison of the alternative allocation of funding to the level of funding institutions were provided for the 2005-07 biennium.

In response to a question from Representative Bellew, the legislative budget analyst and auditor said previous requests for proposals issued by the Legislative Council have included a reference as to the amount of money the Council is anticipating spending for the contract services. He said during the 2003-04 interim, the information technology study proposals received were substantially less than the maximum amount listed in the request for proposal.

Representative Hawken said the legislature's concern with higher education has been the funding methodology not accountability mechanisms; therefore, the consultant's primary focus should be developing a fair and equitable funding formula for the North Dakota University System.

Chairman Holmberg said the evaluation of the University System accountability mechanisms is required by Section 23 of Senate Bill No. 2003; therefore, that requirement must be included in the request for proposal. However, the request for proposal could be modified to list the items to be reviewed in priority order with the evaluation of the long-term financing plan being the first priority.

In response to Representative Martinson, the legislative budget analyst and auditor said one possibility would be to modify the request for proposal to state that the items to be reviewed are listed in priority order, move the evaluation of the long-term financing plan to No. 1, add a statement regarding the development of an alternative plan, move the description of higher education and related items to No. 2, and move the evaluation of previous higher education recommendations to No. 3.

Representative Martinson said he would be agreeable to those changes.

Representative Zaiser said all items listed in the request for proposals should be evaluated by the consultant and the request for proposals should include language requiring the consultant to obtain input from related stakeholders.

In response to a question from Representative Nottestad regarding peer institutions, Ms. Laura Glatt, Vice Chancellor for Administrative Affairs, North Dakota University System, said there have been no changes to peer institutions since the initial selection of the peer institutions.

In response to a request from Senator Flakoll, Ms. Glatt provided the committee with information regarding the criteria used for the selection of peer institutions. A copy of the information is on file in the Legislative Council office.

Representative Owens said unless the request for proposal indicates that an item is optional, a consultant will address each requirement included in the request. He said the request for proposal could be modified to include a statement that a certain percentage of the consultant's time is to be allocated to the evaluation of the long-term financing plan to emphasize the importance of that requirement.

In response to a question from Senator Grindberg regarding the evaluation of proposals, Chairman Holmberg said the Legislative Council has reserved the right to evaluate the proposals and to select the consultant; therefore, the Council will determine how it will evaluate proposals.

**It was moved by Representative Aarsvold, seconded by Senator Grindberg, and carried on a voice vote that the request for proposal be modified to include the language suggested by the North Dakota University System relating to requiring input from public and private stakeholders.**

**It was moved by Senator Grindberg, seconded by Representative Hawken, and carried on a voice vote that the chairman of the Higher Education Committee work with the Legislative Council staff to finalize the draft request for proposal, based on the committee's suggestions, to be made available to the Legislative Council chairman and to provide summary information to assist the Legislative Council in evaluating proposals.**

The Legislative Council staff presented a listing of potential consultants for the study of higher education funding and accountability, a copy of which is on file in the Legislative Council office.

Dr. Potts provided the committee with a list of additional consultants for the study of higher education funding and accountability. A copy of the list is on file in the Legislative Council office.

In response to a question from Senator Grindberg regarding the requirement that a consultant may not have been under contract with the State Board of Higher Education during the previous five years, the Legislative Council staff said it appears as though a

consultant under contract with a higher education institution would be eligible to conduct the study.

Chairman Holmberg said he does not believe a consultant would submit a proposal unless the consultant believed the consultant was an eligible respondent.

Dr. Potts said the North Dakota University System would like the consultant selected for the study to be independent of not only the State Board of Higher Education but of the entire North Dakota University System.

Representative Martinson said the consultant selected should not be from North Dakota, not be a graduate of a North Dakota higher education institution, or have worked for a North Dakota higher education institution.

In response to comments from Senator Flakoll, regarding potential North Dakota connections, Representative Owens said the draft request for proposal requires that a consultant's proposal include information on the individuals who would conduct the study, including education and employment experiences which will identify relevant North Dakota connections.

**It was moved by Representative Hawken, seconded by Representative Nottestad, and carried on a voice vote that the Higher Education Committee approve the potential list of consultants as included in the Legislative Council memorandum with the inclusion of the consultants recommended by the North Dakota University System office.**

Senator Holmberg said the revised request for proposal and the list of consultants who were sent the request for proposal to assist with the study will be provided to Higher Education Committee members.

### OTHER COMMITTEE RESPONSIBILITIES

The Legislative Council staff presented a background memorandum regarding other committee responsibilities entitled [Higher Education Committee - Other Responsibilities](#). The Higher Education Committee has been assigned the Legislative Council responsibility to receive a report from the State Board of Higher Education before July 1, 2006, regarding implementation of a policy requiring all institutions to assess faculty and teaching assistant English communication skills, pursuant to NDCC Section 15-10-42.

The Legislative Council staff presented the following proposed study plan for the committee's consideration:

1. Receive a report from the State Board of Higher Education before July 1, 2006,

regarding implementation of a policy requiring all institutions to assess faculty and teaching assistant English communication skills, pursuant to Section 15-10-42.

2. Receive testimony from other interested persons.
3. Develop a recommendation and any bill draft necessary to implement the recommendation.
4. Prepare a final report for submission to the Legislative Council.

Dr. Michel Hillman, Vice Chancellor for Academic and Student Affairs, North Dakota University System office, provided information regarding this committee responsibility. He said the State Board of Higher Education recently revised its policy relating to communications proficiency. He said the North Dakota University System office is working with institutions to ensure students are made aware of the policy and the compliant process and to develop a common compliant reporting format. He said the State Board of Higher Education will provide a report to the committee regarding the implementation of the policy before July 1, 2006. He said the report will include faculty member participation.

### COMMITTEE DISCUSSION

Chairman Holmberg said the Higher Education Committee will conduct budget tours of each of the higher education institutions during the 2005-06 interim. He said he will work with Legislative Council staff to put together a tentative schedule for the visits and will provide that information to the committee.

**It was moved by Representative Delmore, seconded by Representative Martinson, and carried on a voice vote that the committee adjourn subject to the call of the chair.** The meeting was adjourned at 11:30 a.m.

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Roxanne Woeste  
Senior Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

[ATTACH:1](#)