Minutes*

Senate Committee on Faculty Affairs
Tuesday, November 13, 2012
2:30 – 4:30
238A Morrill Hall

Present: Scott Lanyon (chair), William Beeman, Ben Bornsztein, Dann Chapman, Randy Croce, Jennifer Fillo, Tabitha Grier-Reed, Joseph Konstan, Theodor Litman, Rishabh Mishra, Joe Ritter, George Sell, James Wojtaszek

Absent: Kathryn Brown, Arlene Carney, Carl Flink, Sophia Gladding, Frank Kulacki, Karen Miksch, Benjamin Munson, Pamela Stenhjem,

Guests: Professor Fred Morrison, Tina Falkner (Benefits Advisory Committee, Academic Support Resources); Professor Alon McCormick (Senate Committee on Educational Policy)

[In these minutes: (1) update on the Affordable Care Act and the University; (2) grading issues; (3) faculty productivity statement]

1. Update on the Affordable Care Act (ACA) and the University

Professor Lanyon convened the meeting at 2:30 and welcomed Professor Morrison and Dr. Falkner to provide the Committee with an update on the Affordable Care Act (ACA).

Professor Morrison distributed copies of a set of slides and began by recalling that he has made presentations on health-care reform over the last couple of years and has said that there were three challenges.

Three challenges to reform: One was constitutional: Last spring the U.S. Supreme Court upheld the constitutionality of the individual mandate but struck down or limited the Medicaid provisions. There was another legal challenge that has been sent to a trial court; he said he did not believe that case would proceed with alacrity, if at all, and he does not see it as a threat to the ACA. The parts of the ACA that affect University employees have been upheld.

A second challenge was political: Mr. Romney had indicated that he would sign a repeal of the ACA as soon as he got in office. Because he was not elected, and both Congress and the White House the same as they were before the election—a Republican House, a Democratic Senate, and a Democratic White House—there could be stalemate. That will mean no change in the ACA, which is partly good and partly bad. The law stays in place but fixes that could be made probably won't be.

The third challenge is financial: The "fiscal cliff" will affect all government programs, so there could be less money available to spend on the ACA—and everything else. One financial challenge, which does not affect the University, is that if the Medicaid provision is followed—and it is states' choice

* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.

to increase Medicaid coverage to 133% of the federal poverty level or to keep it at 100% of the poverty level—will have the odd effect of increasing federal spending, because if states keep coverage at 100% of the poverty level, a number of people will be eligible for subsidized insurance that could cost more than the increased Medicaid costs.

What's next: 2013. The UPlan will cease to be a "grandfathered plan" and will become a "qualified medical plan," which is authorized by the ACA because it conforms to the standards set forth in the law. One minor change that will be required will be a new appeals process (that could be more expensive but more efficient, and it may be less favorable to employees, but because there are only 2-3 such appeals per year, the effect will not be significant). The flexible spending accounts will be limited to $2500, down from the current $4000, because the ACA seeks to limit the amount of tax-free benefits. The value of an employee's 2012 tax-exempt medical insurance will be shown on the W-2 statement from the University, although there are no tax consequences (yet), so employees need do nothing about the information.

2013: Preparations for 2014. The UPlan will send all employees a notice about the Exchange options, because the ACA requires that such notices be sent. Professor Morrison said that the notice will not be relevant for most University employees because they will have better coverage at a lower price than what they could obtain through an Exchange plan. The Exchanges will be authorized by the legislature and roll out their options and begin enrolling members for 2014. The Exchanges will be a very positive entity—they will include computer programs that will show someone's options and will be connected to Medicaid, and one will go to the Exchanges to obtain Medicaid. It will all be seamless.

What's next: 2014. The Exchange policies take effect January 1, 2014. There will be premium assistance for low and moderate income employees. This again will probably not be relevant for University employees because the remaining premium cost, after the assistance, will be likely exceed what employees pay at the University for better coverage. The premium assistance will probably be available for a family of four with incomes up to about $80,000, but it is doubtful that the coverage will be better than the UPlan, Professor Morrison said. In 2014 everyone must have coverage or pay a special tax in 2015 ($750). Medicaid will be available for those with up to 133% of the federal poverty level, as he noted previously; some states may choose not to participate but Minnesota likely will do so. There will also be a reinsurance tax (supposedly for three years), which is one piece of bad news for the University. The tax is to cover the transition costs for some plans and phases out over the three years; it will add about $2 million to UPlan costs (about 1% of the total budget). The ACA is not free for employers, Professor Morrison observed—it cost about $2 million to cover the adult children of employees up to age 26, so the UPlan will see an increase in cost of about $4 million over the next three years.

What's next: 2018. After 2014, nothing much happens for four years, Professor Morrison said. The "Cadillac" tax on high-cost employee health benefits begins in 2018 and it applies to the value of pre-tax health benefits in excess of the maximum set in the law. The "plan value" is the employer contribution plus the employee contribution plus any health flexible spending account available to employees. The maxima (for 2018) are $10,200 for individual coverage and $27,500 for any form of family coverage. These amounts are not likely to change (because they are written into the statue), but they do increase by the CPI in subsequent years (but the CPI is lower than the typical medical cost trend). The IRS has not yet published the regulations.

The Cadillac tax is 40% and is to be paid by the University. The University must avoid this tax liability for both financial and political reasons, Professor Morrison told the Committee. By 2020 or 2022 it could amount to $12-14 million per year. The tax represents the value being lost to the IRS because of tax-free benefits provided to employees. If the University must pay it, the source of funding would almost certainly be compensation funds. Moreover, if it becomes known that the University is providing Cadillac coverage to its employees, that might not help with relations with the legislature.

"Plan value" is a dollar amount but can also be illustrated as a percentage, reflecting the ratio between the amount paid by insurance and the amount paid out-of-pocket. Plans in the Exchange are rated in terms of metals:

Platinum = a plan that pays more than 90% of the total cost of care
Gold = a plan that pays more than 80% of the total
Silver = a plan that pays more than 70% of the total
Bronze = a plan that pays more than 60% of the total

The UPlan is "Platinum plus" because it pays about 94% of total costs, Professor Morrison said, because it does not have high co-pays and has no deductibles. It is in a range that is at risk under the limits set by the ACA.

Professor Konstan said that if the University is self-funded versus buying coverage on the market, where is the administrative cost figured in? Professor Morrison said that answer will be in the regulations that have not yet been published. There are big "ifs" here; what if the University's administrative costs are not counted toward the tax threshold? If so, that would reduce the value of the plan about 3%--not very much because the University does not have high administrative costs. Professor Konstan asked if it would be better if the University did not use Medica as the plan administrator. Professor Morrison said that there are expertise and computer systems that a plan administrator supplies that the University simply could not replicate. So the ACA is attempting to induce getting health care more cheaply and it is attempting to induce a shift to more marginal spending by the insured so they are more likely to self-ration health care, Professor Konstan concluded. That is correct, Professor Morrison said, and the ACA thus provides an incentive to the plan sponsors that have a depressive effect on the market so that health care providers do not charge as much.

What is the Cadillac tax supposed to do? It effectively limits the amount of tax-free income an employee can receive in the form of health benefits, Professor Morrison said. It provides some income to offset federal subsidies health care for low-income individuals. As a result, it forces employers like the University to resist medical cost increases. Will the tax be changed before 2018? "Who knows," Professor Morrison said. Perhaps. Congress might repeal the tax, raise the threshold, or change the rate. Or Congress could adjust the limits. But the University cannot count on any of those things happening. Professor Morrison said he has thought of the University's health plan as a Buick, not a Cadillac.

Professor Bornsztein pointed out that there will be a presidential election in 2016. That will be too late and the train will have left the station, Professor Morrison said. It will not be possible to easily turn off the Exchanges because by that time many people will have their insurance policies through them.

Will the Cadillac tax affect the University? Yes, unless the University takes steps to limit the "plan value" of its plans, Professor Morrison said. (He noted again that "plan value" = employer contribution plus employee contribution plus health-related flexible spending accounts.) Possible ways to control the plan value are several. (1) Eliminate the health-related flexible spending accounts, which is something the University could do very easily. (2) Provide more cost-effective care, such as moving toward Accountable Care Organizations (which the ACA encourages), so sending employees to high-quality service, lower-cost providers. (3) Offer narrower networks. (4) Increase co-pays and introduce deductibles. (5) Other technical adjustments. Steps that will NOT help control plan value include shifting premium costs from the employer to the employee or limiting services provided under the plan (but the plan must provide "essential medical services," and there is not much the University could stop providing).

Professor Konstan pointed out that the University has several plans. Does the cheapest plan fall into the range of the Cadillac tax? The base plan for the Twin Cities does not, Professor Morrison said; it is a heavily-loaded Buick, but base plans for Duluth and Greater Minnesota might do so. The Medica Choice plan certainly would do so. Professor Konstan responded that the University could say to employees that if they want a plan with more flexibility, it will involve greater copays instead of higher premiums. Other than the shift of great expense to those who use healthcare more, this could allow the University to maintain the general level of benefits while staying out of the Cadillac range. Professor Morrison said that to do so means one must guess the rate of inflation over the next five years; they have modeled the alternatives with a variety of options but do not have anything ready to talk about yet. But it only makes a difference if the value exceeds the $10,200/$27,500 limits, Professor Konstan said. So if the University can get the costs down, it could still be a Buick.

With respect to questions of equity, Professor Konstan said, could they look at making annual out-of-pocket maximums a function of income level? That is also on the list but has not yet been modeled, Professor Morrison responded. The health plan for the Morris campus is very expensive and the University may have to think about merging it with the Twin Cities plans in order to bring its cost down.

What to expect? Professor Morrison reported that the University is working with Towers Watson, a national consulting firm, to develop options. Options will be developed by the Employee Benefits Department in the Office of Human Resources and the Administrative Working Group (on which he serves). Consultation will take place with the Benefits Advisory Committee and other governance groups (faculty, P&A, and civil service) and brought back to this Committee. (Matters subject to bargaining will be part of negotiations with the appropriate unions.)

Professor Sell inquired where retirement health coverage fits. It is covered under retiree plans, Professor Morrison said; the University has four plans and they likely will continue.

Professor Beeman asked what leverage the University has to get any provider to reduce costs. What clout does it have? Professor Morrison said the University is a relatively large group in the Minnesota market and can say that it will do business with one organization and not another. Professor Beeman suggested that the providers may communicate with each other. They want the business, Professor Morrison said. And they are competitive, Professor Litman added. In addition, there will be pressure from plan administrators, Professor Morrison said, such as Medica and Blue Cross, as well as the fact that the federal government, through the ACA, will promote payments for efficient care. It won't be possible to get to a 20% reduction in health care costs, but the University can probably push the costs down some.

Why is that not happening now, Professor Beeman asked? It is, Professor Morrison said. Mr. Chapman said that they are seeing that health care increases have been lower recently than in past years, but a large part of reducing costs has been squeezing money from doctors to do more for less. The Accountable Care Organizations drive things in a different way in reimbursing providers. It is clear that plans have been reimbursing providers in the wrong way, Mr. Chapman said, doing it like factory line workers: The more services they perform, the more they will be paid, and there are legal pressures on doctors to do more testing related to liability. The Accountable Care Organizations are organized differently and are reimbursing for outcomes and efficiencies in delivering good health outcomes, which changes the provider outlook.

Professor Beeman asked again what leverage the University has. Tell the providers that their costs put the University above a certain level? What does it do? Mr. Chapman pointed out that the University has not lost physicians but it has reduced the number of administrative providers (to one). It would be possible to reduce the number of physicians available—there are groups that would give the University a better price if it is willing to restrict choice.

Mr. Croce observed that the University is not the only entity faced with the ACA constraints. Companies want to avoid the Cadillac tax as well; there could be many employers putting pressure on costs.

Mr. Croce asked if there are any subsidies available through the Exchanges that are also available through the University. If not, can the University offer subsidies to people who make less money? Mr. Chapman said that question comes way down the road; 2018 is a long way away and he believes the University can probably push its exposure to the tax beyond 2018. He said he is not inclined to recommend any radical changes unless the University is forced to make them because the preference is to preserve the value of the University's benefits. It is a question they will keep an eye on as a long-term strategy but much could change between now and 2018.

Professor Morrison said that first, they have no real idea until they see prices on the Exchange plans, and it may be that they will not be competitive with the University at any level. Second, he said, it may be an option—whether or not feasible would have to be seen—to give employees a voucher to go to the Exchange, and then the person could obtain the federal subsidy. But it isn't clear the University would want to do that; the situation needs to be monitored.

Mr. Mishra asked if the ACA would affect the student health plans. It will not, Professor Morrison said, only the plans for employees.

Professor Konstan said he was not inclined to worry about the numbers in the policy. If Minnesota is struggling to stay under the cap, New York and California will even more so and they will exert pressure to raise the threshold. He said that the University could make the employee contribution into an annual deductible instead as a quick fix, but there is no reason to panic and it is good to think about the issues, but he suggested the University do nothing right now.

Professor Bornsztein asked what number of new insureds there would be in Minnesota as a result of the ACA. The guests were uncertain, but Professor Morrison surmised that there could be a capacity problem—more people than providers can handle. Mr. Chapman observed that the ACA would not mean everyone is covered—there will still be some people without health insurance.

Professor Beeman asked if they anticipate that there will be a market for supplemental insurance no matter what. They do, Professor Morrison said, and are thinking about it. It is the same as the Medigap policies. The problem is that a plan must provide all "essential medical services" (as defined by the law, in order to satisfy the requirement that every individual has insurance, so the base plan will have to cover all of those services.

Mr. Chapman said that a significant concern for him is the confusion on the part of employees that will likely ensue from the creation of the Exchanges. He agreed with Professor Morrison that University employees will likely be much better off staying with University health benefits. The Exchanges will be offering bronze-level plans and people will be exposed to much more risk than they are with the UPlan. But if lower-salaried employees see the low cost for an Exchange policy, plus the subsidy, it could look attractive—and the employees could be stuck with out-of-pocket costs that they cannot manage. This will be a significant problem for Employee Benefits: They must tell employees that they can go to the Exchanges and also tell them why doing so might not be good for them.

If an employee leaves the University plan and goes with an Exchange plan, can he or she return to the University plan, Professor Litman asked. They could during open enrollment, Mr. Chapman said, so could end up out of the UPlan for a year. That is different for retirees, Professor Litman observed; once one leaves the UPlan coverage as a retiree, one cannot return to it.

Ms. Fillo said that there are a number of insurance "pots" for different groups of employees; would there be any advantage to putting undergraduate and graduate students in with faculty and staff, thereby adding a lot of young, healthy people to the pool and increasing the University's bargaining power? Mr. Chapman said not. The University is already a large group and it is also a flagship account—companies like to be able to say that they serve the University of Minnesota. Such a mix would also be harmful to student and graduate-assistant health plans. The University, in providing an employee plan, must also comply with federal regulations, Professor Morrison said, regulations that do not apply to student plans. They would not mix well together.

Professor Konstan said that in terms of fending off employees who want to consider an Exchange plan, the University needs to develop example cases, such as what happens when someone has diabetes or is diagnosed with cancer, so employees can see the difference in the UPlan and an Exchange plan. At the lowest tier, the University could perhaps create a zero-cost plan and put everything into deductibles. That is on their radar screen, Mr. Chapman said.

Professor Bornsztein said that there are studies in the literature demonstrating that for every dollar spent on health care in the United States, less than 25% goes to the doctors and clinical services; the rest goes to the administrative/hospital/pharmacological/etc. infrastructure—and health care is 20-25% of U.S. GDP. For 2010, total expenditures were $2.3 trillion, of which only 20% went to physicians and clinical services. That is why the country needs health-care reform, Mr. Chapman observed. There are good things in the ACA but there are also things that leave much to be desired.

Ms. Fillo said that research in psychology finds that patients' increased involvement in health-care decisions might not actually be a good thing. Research has shown that people do not make better decisions when presented with more options, which might be problematic given all the choice that will be available in the new health care exchanges. The University should be cognizant of that when providing employees with health care choices, and they should try to help their employees make the best decisions. They have tried to address that problem by keeping the range of options limited, Professor Morrison said.

Professor Lanyon thanked Mr. Chapman, Dr. Falkner, and Mr. Chapman for the report.

2. Grading Issues

Professor Lanyon now welcomed Professor McCormick, chair of the Senate Committee on Educational Policy (SCEP), to the meeting to discuss grading issues.

Professor McCormick reported that the issues he is bringing for discussion revolve around undergraduate grades, providing context for grades on a transcript, and how students and others understand grades. It seems that about every decade Senate committees get interested in grade inflation/grade compression; Professor McCormick reviewed the information that SCEP has been considering, including a SCEP report and recommendations to the Senate in 1999. That report called for grading data to be presented to the Senate every year and to be distributed to deans and department heads; the data are only presented at the college level and by course level. (For example, the "GPA" of all grades in all CBS courses at the 1XXX level, the 2XXX level, and so on, as well as the percentage of the grades at each level that are an A.)

In 2011 the Faculty Consultative Committee became interested in the data; it noticed a moderate increase in the number of A's and was worried about grade compression and asked SCEP to provide a recommendation on how students and others could be provided context for grades. Professor Cramer, then the chair of the Faculty Consultative Committee, wrote a proposal and asked SCEP to debate it; it proposed providing context on student transcripts. The discussion has not at any time suggested restricting faculty prerogatives in awarding grades.

Things have happened between the 1999 SCEP report and 2011, Professor McCormick related. There is a website, myedu.com, that collects grading information from public universities around the country, through Freedom of Information Act requests (the private institutions generally ignore the request). A student can get grade distributions for any course and any faculty member at the University—and has been able to do so since 2003. So there is a great deal of information already available on the web.

Some institutions have taken control of the process and have begun providing the data themselves, Professor McCormick said. Some post the data only for students, but sometimes the data are available to the public.

SCEP has learned that changing the transcript is not feasible now, given the information it has received from the Registrar, and changing it may never be easy. Given what is now available on the web, information the University has been releasing since 2003, and given that some of its peers are releasing the information, SCEP has raised the question whether the University should also release the data. Professor McCormick said he would like to know this Committee's opinion on that option. He has surveyed some of the faculty members in his college (Science and Engineering) and there is a range of reactions. Some believe students would weigh the information too heavily, there is the thought that students could use the information with their advisers, and some fear that releasing it could simply feed grade inflation pressures (students could say "you're too harsh" to faculty members whose average grades were lower than others'), but it would also mean that students could understand where it is harder to get good grades. Professor McCormick emphasized that the discussion is not about grading styles, it is only about the question of whether the University should make available to students on a website grades for courses.

Dr. Falkner reported that it would cost a considerable amount of money to add information on the transcript because nothing delivered in PeopleSoft would allow that option, so they would have to write a separate application. It is tremendously complicated and more so than saying it could possibly be done in the future. None of the University's peer institutions provide such information so doing it could put Minnesota's students at a disadvantage.

Ms. Fillo asked how people are interpreting transcripts. The University may not impose standards but others can impose their own on what they see. She said she would be happy to give all students an A if they met the standards (which they do not).

Professor Konstan said he was of mixed mind about the idea. It is probably not worth it to try to add information to the transcript, but if doing so became a national standard, the University could reconsider the question. It is fine to provide context for grades but the proposal is not enough; he agreed that courses need to be identified as norm-referenced or criterion-referenced, hybrids, and so on. He said it would also be helpful to have five years of grades in a course, because they can vary across time.

Professor Ritter expressed a concern about revealing private data if cell sizes were too small in some course; Dr. Falkner assured him that the University would not release data with fewer than 5 entries in a cell. Professor Ritter asked why not let myedu.com go ahead and do what they're doing. Are they doing a bad job? He does not know, Professor McCormick said, the University does not monitor the data. The sense of the discussion at SCEP was that if the data are going to be out there, the University should take control of the process and connect the data with advising. But there is a strain of thought along the line of "let them do it." Or the job could be outsourced to them, Professor Ritter said, and the results put on a University website.

Professor Grier-Reed said that one reason there are as many A's in courses in her college (Education and Human Development) is because there are a lot of physical education courses. She said she favored providing context on a website because doing so could lead to more discussions about grading—and there might be more uniformity just from the faculty discussions. Students might look at the data and make choices, which could affect faculty behavior, but the faculty could get together to discuss what they are doing.

What an A means is a larger question, Professor Grier-Reed said. She said she uses criterion-referenced grading, so it would be possible for everyone in a course to receive an A. That never happens, and there are W's and some lower grades because the class is hard work. Students may think a course is an easy A if they see a lot of them in a course, but it could be criterion-referenced and require a great deal of work. She agreed that it would be helpful if a course were described as norm- or criterion-referenced.

Professor McCormick said he also knows of instances when faculty members banded together on grading standards and decided what they would do as a group. Nothing was imposed on them.

Professor Beeman asked who finds the information useful. Some schools make a general statement about their grades indicating they are tough. The students who are most panicked about a grade less than an A are pre-med students, who fear they won't get into medical school with less than a 4.0, and the stereotype has some truth to it. When his department looks at students for graduate admission, they rarely do a GPA calculation; they look at a panoply of information and the most important element is the autobiographical piece. What they want to know from a transcript is whether a student can do the work and grades are never a determining factor. Professor Sell said that letters are important in his department.

Professor Wojtaszek asked about the 1999 report. Professor McCormick said that the conversations at the Faculty Consultative Committee took a broad perspective and was concerned about how students and others would interpret grades. Grading remains in the current charge to SCEP so it will respond.

Professor Konstan said that the fact that data are secret is ephemeral; grades were on office doors and could be looked at. Now it is difficult to find syllabi because they are locked up in Moodle. Students knew about grades before and it would not be terrible to step back to that day. One must also recognize the limits of what grades mean, Professor Grier-Reed added. A student can work hard to earn a high grade or a talented student can glide through and get a high grade easily—but both receive the same grade, so it doesn't tell you a lot.

In terms of graduate admissions, one aspect of grades in context is that one does not know what a 3.5 GPA from the University of Minnesota means, Professor Ritter observed. Providing grades in context need not be at the course level to be useful.

Professor Lanyon thanked Professor McCormick for joining the meeting.

3. Faculty Productivity Statement

The Committee returned to the statement on faculty productivity that it had prepared and discussed at earlier meetings. Professor Lanyon recalled that the statement was drafted at the request of the Faculty Consultative Committee to assist University Relations in dealing with question about faculty work and productivity. He said he has been informed that the statement has never been formally sent to University Relations, although Ms. Harvey in that office has seen it.

Committee members made a number of points about the draft statement.

-- The Committee should say that performance is not a problem and toss out the statement. It is negative; the Committee should write something about the legacy of research at the University and look at grant funding and tell the stories about teaching and research success.

-- No one doubts the stories need to be told; the University has done it repeatedly. There is a fundamental question: It is more efficient to hire an instructor at 40% of the cost of a faculty member who will teach twice as much as the faculty member. The University must be posed to respond to that conversation when it arises, and it has come up locally a number of times over the years. The University has to give a picture beyond the teaching hours per week about the time in research, in instruction outside of class, and has to have metrics and numbers that are not generated the way they were in Texas and Florida.

-- There are two approaches. One is to challenge the assumptions of those asking the questions in that way and explain the creative process. But the University must also go beyond that. People work hard—that is not a smokescreen—but trying to quantify the work is problematic.

-- The issue waxes and wanes; the statement was drafted in order to help University Relations, which be armed with something it can use. It may be that a dialogue with University Relations would help, a multi-stage discussion.

Professor Beeman commented that schools that do top work have taken out full page ads in the New York Times. But the challenge is not to tell University Relations what to do but to provide information it needs, Professor Lanyon said. University Relations may not be geared to do what needs to be done, Professor Beeman rejoined. It needs to have people charged and competent to tell stories about what is done on campus. Right now it seems more to react to news. That is not a long-term strategy; it is fine to provide information to the community, but there should be a long-term strategy.

Professor Lanyon indicated that he would talk with the chair of FCC to arrange a time to meet with University Relations. The purpose of the meeting will be to discuss ways in which faculty can help prepare them respond to questions about faculty productivity. He adjourned the meeting at 4:40.

-- Gary Engstrand

University of Minnesota