Minutes*

Senate Committee on Faculty Affairs
Tuesday, October 19, 2004
2:15 – 4:00
238A Morrill Hall

Present: Morris Kleiner (chair), F. R. P. Akehurst, Matthew Bribitzer-Stull, Bruce Brorson, Carol Carrier, Dann Chapman, A. Saari Csallany, Jesse Daniels, Richard Goldstein, Darwin Hendel, Robert Jones, Theodor Litman, Steven McLoon, Kathleen Sellew, Oriol Valls, Larry Wallace, Timothy Wiedmann

Absent: Janet Ericksen, John Fossum, Patricia Frazier, Wade Savage, Aks Zaheer

Guests: Associate Vice President Gerald Fischer, Vice President Richard Pfutzenreuter; Professor David Born (Grievance Advisory Committee), Ms. Carolyn Chalmers (University Grievance Officer); Jackie Singer (Employee Benefits)

[In these minutes: (1) endowed chairs and internal taxes; (2) University Grievance Office annual report and report on changes in process; (3) charges about health plan costs; (4) endowed chair appointment terms]

1. Endowed Chairs and Internal Taxes

Professor Kleiner convened the meeting at 2:30 and welcomed Associate Vice President Fischer and Vice President Pfutzenreuter. He explained that last summer he had asked the two of them to talk about how endowment funds are used in the University for endowed chairs. He noted that there had been an article in The Chronicle of Higher Education reporting on a lawsuit by donors against Princeton University alleging the misuse of assets that had been donated. Issues come up at the University about its being a good steward and whether donations can be subject to internal taxes. Professor Kleiner noted that there are 379 endowed chairs at the University and almost all faculty receive some kind of support from private funds.

Mr. Fischer began by thanking the Committee for the opportunity to talk about endowed chairs. Generally the University has seen a remarkable increase in private support; the only reason people give a private gift to a public institution is to supplement the core funding from the state, to create a margin of excellence. The University of Minnesota Foundation is only 42 years old but has seen dramatic growth in support. In the early 1990s the University was receiving about $40 million per year in private support; by the late 1990s, that number had risen to about $75 million. The most recent capital campaign raised about $200 million per year, and last year (after the campaign) the University raised about $140 million. The number of donors has increased steadily and the combined endowments (U of M Foundation, Minnesota Medical Foundation, and University endowment) total about $1.7 billion, which puts it at 7th in the nation among public universities and 26th overall.

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

The faculty have been very important in giving to the University, Mr. Fischer told the Committee. During the last campaign 11,000 faculty and staff gave $65 million; the original goal set by the faculty-staff committee was exceeded by 162%, which was an extraordinary outpouring of support. No one will rank institutions on this, but Mr. Fischer said the anecdotal evidence suggests that faculty/staff private support at the University is roughly twice as much as is given at the Big Ten institution with the next-highest level of faculty/staff support. He said he believed the University of Minnesota faculty and staff are so generous because they believe deeply in the institution's mission and they understand the value of private gifts. This support is outstanding, he said, especially at a time when there are pressures on compensation. Last year 5,028 faculty and staff gave $9 million, which is double the pre-campaign amount that they were donating.

In 1984 the University had 17 endowed chairs. The Foundation Board of Directors determined there should be a fund-raising campaign that would emphasize faculty excellence and that would create 100 new endowed chairs. By the end of the campaign, in 1988, there were 138 endowed chairs. With no campaign from 1988 to 1996, the number increased to 245. By the end of the most recent campaign, which realized $350 million in gifts and commitments for faculty support, there were 355 endowed chairs. Right now there are 379, which means that about 12-13% of faculty positions are being supplemented through endowments.

The University also has privately-funded endowed graduate fellowships. It is relatively difficult to raise money for that purpose, but a portion of the Ziagen royalty funds have been used to match new gifts for fellowships. They have raised almost the entire $50 million that was the goal and the number of endowed fellowships has increased from 117 to 450. These give more power to the faculty to recruit outstanding graduate students to work with them. They are now emphasizing undergraduate and professional school scholarships, but the approaches to donors will be seamless in terms of requesting support for student aid.

Mr. Fischer said he wanted to convey a sense of gratitude to the faculty and staff. Many universities do not even ask their faculty and staff for support. For 1985-1988, the faculty/staff goal was $3 million; they gave $11 million. The $67 million given in the last campaign is extraordinary.

Stewardship is the most important factor in the long-term success of the development organization, Mr. Fischer told the Committee—being sure that donor desires are being met and the funds are invested well. The Foundation has consistently been in the top quartile of all college and university endowments in the country. They want departments to be able easily to spend the money that has been donated; they also report to donors how the money has made a difference in teaching, in the quality of research, or whatever it was used for—how is the world made better by the gift. They ask faculty to write a few paragraphs on what they have done that can be sent to donors and foundations. To take this interaction up a notch, Mr. Fischer said he would like faculty who are supported by private funds to take the donor to lunch and tell him or her what they are doing. This would NOT mean asking for money, it would be saying "thank you" and how they are touched by the investment in the excellence of the University.

Professor Goldstein said that credit should be given where it is due; the leadership of the Foundation has been very important to the success that Mr. Fischer reports. He said it is important to disseminate to faculty and staff, as well as to the outside world, how supportive the faculty and staff have been in the University's fund-raising efforts.

Professor Wiedmann speculated that it would be easier to raise money for scholarships from inside the University than easier to raise money for faculty from the outside. Mr. Fischer said that nothing is easy and that he would not necessarily concur with Professor Wiedmann's conclusion. The Foundation has worked hard to build high levels of trust with donors; their first priority is to listen to donors to identify their passions and dreams. The beauty of a large land-grant research university with urban and rural campuses and programs is that it is the University's problem if they can't match a program to donor objectives. Many alumni feel they want to pay back the University and help the next generations of learners.

Vice President Pfutzenreuter next told the Committee he was present to talk about the continuing concern among faculty and the Foundation about the Internal Revenue Sharing (IRS) tax. Over the years since the University adopted IMG, it has not wanted to confront the question of how to pay for central costs when most of the revenue was given to the colleges. Shortly after that decision, state support for the University flattened out; former President Yudof chose to impose the IRS tax to recapture funds from the units in order to pay the bills. There are other options that could have been chosen, such as changing tuition allocation or keeping more state funds, but the end result has been a confusing budget system, with perverse incentives, that is not worth haggling over.

The IRS is 8.5% of non-sponsored revenues to a college, and that is all revenues. The rules of the game, which the deans requested, are that they have flexibility to pay the IRS to central administration with any revenues they choose. That is the agreement with the colleges. In the early years of the IRS, 99% of the bill was paid with O&M funds (state and tuition dollars). More recently, deans have become more creative as resources have grown tighter and have begun to pay the IRS with endowment and gift money. But it has NEVER been a central policy that endowments and gifts are explicitly taxed or that they can or should be used to pay the IRS bill. It was an oversight on their part that they did not anticipate the angst that has been created. Now that the IRS has risen to 8.5%, it has become more of an issue.

At the urging of the concerned faculty and the Foundation, the administration has reconsidered its position and has a memo that is close to being done. With respect to the University endowment (the Permanent University Fund, or PUF, which is separate from the U of M Foundation), the General Counsel has determined that state law bars the use of the earnings on gifts. With respect to the Foundation, there is a Regents' policy that the money from gifts will be used exclusively for the purpose for which it was donated, so the administration will ban using Foundation funds to pay the IRS bill to the colleges.

But the administration will still send the bill, Professor McLoon observed. The colleges must still pay the bill, Mr. Pfutzenreuter agreed, but not with PUF or Foundation funds. Revenues from those two sources, however, will still be counted in the total revenues of the college. There is, however, a task force working on a new budget model for the University; when it is finished, presumably that last part of the problem will be fixed. The General Counsel has advised that it is not against the law to include the endowment/gift revenues in the calculations, only to use them to pay the IRS tax.

What is the 8.5% a percentage of, Professor Goldstein asked? All college revenues except sponsored research funds, Mr. Pfutzenreuter said. And when funds are transferred from the Foundation to a college, those funds are part of the revenue, Mr. Fischer pointed. The tax is paid on state funds as well as other sources, Professor Csallany asked? It is, Mr. Pfutzenreuter affirmed. Why is it at 8.5%, she then asked. The IRS started at about 1%, Mr. Pfutzenreuter explained, and has gone up in order to pay utility bills, compact investments, and because the legislature significantly reduced state funding for the University.

It has been assumed that in the redo of the University's budget model, the concern about donor relations will be addressed, Mr. Fischer said. Mr. Pfutzenreuter agreed but said that there would be no change this fiscal year, because to make a mid-year change would require a substantial redistribution of funds in some units.

Professor Wiedmann said that in his college funds must be diverted to places that do not have Foundation funds in order to make up the IRS payment, but that he was happy (?) to do that for the University. Professor McLoon said he was not happy to do that for the University. Originally he got to keep all of the money he brought in; now he must give up a lot, which hurts the academic program and will hurt when faculty start leaving. The question the University must face, Mr. Pfutzenreuter said, is with declining state funds, how will it pay for the enterprise—technology, facilities, salaries, etc.

The yield on endowments has gone down from 5.5% to 4.5%, Professor Kleiner pointed out; the Foundation has done a tremendous job in raising money, but is that success undercut by declining rates? Mr. Fischer said that on the advice of their external advisor, the Foundation decided to lower the spending rate from 5.5% to 5.0% by .1% per year over five years, and then down another .5% spread over the next five years, to 4.5%. In making the change gradually (many institutions made the change immediately, reducing payouts to departments by 20% in one year), they hoped to minimize the impact on units and that units would actually not see a reduction in the nominal dollars they were receiving. The idea behind the changes is to ensure that the endowment retains its value—growing at the rate of inflation after the payouts to departments. They have thus far done better than inflation.

With respect to the PUF, Mr. Pfutzenreuter reported, the administration just began discussions with the Regents last spring. They have run models on the endowment to determine if they should reduce payouts to less than 5%. The PUF is in the same situation as the Foundation, and most such organizations are dropping their rates, but they do not plan to go to the Board of Regents before next March so there would be time to consult on this before any recommendation is made. They will not necessarily reduce PUF payouts to 4.5%, Mr. Pfutzenreuter said; PUF and the Foundation use different models; they are just beginning the discussion. There is no great appetite to reduce the payout, he added.

When the payout is reduced, do the savings go to the corpus of the endowment or to management charges, Professor Goldstein asked. The Foundation charges .75%, Mr. Fischer reported (before the most recent capital campaign, they charged .5%). It is important to them to be below the competitive rate charged in the market (e.g., community funds, bank trust funds, etc.), and most such funds charge more than 1%. So a reduction in the payout goes to the corpus, Professor Goldstein concluded. Mr. Fischer said he would rather talk about total return, which for the latest year was 17.2%, and much lower than that level for the fours years before that. They apply the spending rate to a 5-year moving average of the endowment market value; the goal is to earn 6 points more than inflation to cover the cost of the management charges and the payout. There were years (2001-2-3) when the total return was below the payout but they still paid out the full amount. They have same goal with the PUF funds, Mr. Pfutzenreuter said: make a return that covers the management charges, the payout, and inflation.

Professor Hendel inquired if Mr. Pfutzenreuter had any idea about the decanal decision-making process to identify the source of funds to pay the 8.5% IRS tax and how the decision might negatively affect the work lives of faculty. Mr. Pfutzenreuter said he did not know what processes the deans used to make decisions. Last year, 1.2% of the IRS payments were with gift funds. The larger the tuition and O&M portion of a budget, the less pressure there is on gift funds, Mr. Fischer observed.

Professor McLoon asked about the extent to which the Foundation approaches the parents of students at the University. Traditionally they do not approach parents, Mr. Fischer said. Some Big Ten schools are doing so. Some parents are ASKING about making donations, however, because they are so delighted with the quality and relative cost of the University compared to an Ivy League school. The Foundation is thinking about the issue, and how to differentiate between young alumni, students, and parents. It is more important to engage the alumni in the University as the best way to build future donors, Mr. Fischer said.

Professor Kleiner thanked Messrs. Fischer and Pfutzenreuter for their report.

2. University Grievance Office Annual Report

Professor Kleiner next welcomed Professor Born, Chair of the Grievance Advisory Committee, and Ms. Chalmers, University Grievance Officer, to the meeting to present the University Grievance Office (UGO) annual report for 2003-04. Ms. Chalmers presented information about grievance processing and Professor Born presented the work done to develop a new Conflict Resolution Policy to replace the Grievance Policy.

Ms. Chalmers distributed copies of the annual report and briefly outlined its contents for the Committee:

-- The office had inquiry meetings with 73 employees seeking assistance with a workplace disputes; of them, about 20 subsequently filed a grievance.

-- There were 28 new grievances filed during 2003-04, the same as during 2002-03. The UGO provides structured opportunities for informal resolution of a grievance; 24 of the 28 new grievances were resolved during these informal Phase I and Phase II meetings.

-- There were few Phase III hearings (2 last year compared to 8 the year before). Four grievances went to Phase IV arbitration—an expensive process that involves bringing in outside arbitrators. One was resolved for the grievant, one for the University, one settled, and one is still in process.

In terms of issues raised by regular (tenured or tenure-track) faculty, some have related to post-tenure review. Others have involved tenured faculty struggling to adjust to entrepreneurial expectations, especially with respect to research funding and particularly in the Academic Health Center (although not only there) when there are research and clinical funds to be generated. Others have related to long-term tenured faculty whose subject matter is no longer high on a college's agenda. These faculty raise questions about what their rights are to continue to teach and research in their preferred field.

The other area of concern is temporary and contract faculty. In connection with these appointments, systemic problems include whether individuals understand if they are contract faculty or

P&A employees, whether there are policies which apply to their status and whether the policies that apply are being complied with—particularly in the use of temporary appointments.

Professor Born next related that over the last 18 months, at the direction of the President, the Grievance Advisory Committee and the Grievance Office convened a dispute resolution working group with representatives from many offices and constituencies across the campus. This group spent many hours in discussions. This group made many significant contributions to the work of the Grievance Advisory Committee in its development of recommended revisions in the University Grievance Policy. The suggested changes move the University toward a less adversarial system and authorize the UGO to use more informal processes while leaving the more formal grievance procedures (hearings, arbitration, etc.) in place. Born said the GAC, the UGO, and the working group hope this change will contribute to more productive environment in which to work. The suggestion to move in this direction came from virtually everyone who works these issues; Dr. Born and Ms. Chalmers have been to the Senate Consultative Committee and the Senate for endorsement; it now goes to the President for his recommendation to the Board of Regents.

After the Senate meeting, Professor Born reported, he and Ms. Chalmers met with representatives from the Senate Judicial Committee, which may consider moving to a similar model to help diffuse tensions that can surround Judicial Committee proceedings.

Professor Born extended thanks to all who helped in the process; Ms. Chalmers said that Senior Vice President Jones has been very supportive and helped the initiative along.

Ms. Chalmers commented that her office is available to perhaps 20,000 employees and student workers; about 30 employees file grievances in any year. The new policy is intended to provide a broader range of conflict resolution services. The President has supported the changes, Professor Born said, and also encouraged continued work on dispute resolution and keeping communication open between offices in order to ensure that the appropriate services are available to people. Professor Wallace asked Ms. Chalmers if she had any feedback from faculty, given the low numbers of grievances, on why they do not use her office: is it because they do not feel they have a chance at success and no one will listen to them? Some probably feel that way, Ms. Chalmers said, but a bigger impediment is having no other way to deal with a problem except to throw down the gauntlet of a grievance. That is not easy for people to do, especially in an academic culture. Some of those who file may be cynical, but it is not a useless process—people do obtain remedies, panels make recommendations, the University does respond, and all involved learn and benefit from the process.

Is there any baseline against which she measures when she concludes that a low percentage use of her office means employees are uncomfortable using it versus the possibility that policies in general are being even-handedly enforced, Mr. Chapman asked? Ms. Chalmers said she does not have scientific data but she has often been told that people are loath to file grievances and the focus group work this year reinforced this. Assuming policies are being even-handedly enforced, there still will be more than 30 people with workplace conflicts in ANY organization this size. She does NOT conclude, she told the Committee, that policies are not being carried out even-handedly.

Administrators commented to them that when an employee is unhappy but does not pursue resolution of the problem, things tend to build up and affect co-workers and productivity, Professor Born said. They learned that many department heads avoid dealing with conflicts; they are likely to recommend more training of mid-level administrators in dealing with conflicts. He recalled that he has served as chair of two academic departments and never had any training in dealing with conflict and personnel management. He noted his view that most faculty do not come into the University to be administrators and are not, as a result, equipped to deal with these kinds of problems. He understands that more training is now available to incoming chairs and other administrators, but his sense is that considerably more attention needs to be paid to training and supporting our mid-level managers and supervisory personnel.

Professor Kleiner applauded the movement to a problem-solving approach while also retaining the legalistic apparatus for use when needed. Is there any plan to evaluate how this new approach is working, he asked? Ms. Chalmers said that at present the Grievance Office uses a satisfaction survey of users. She said they aspire to develop a tool to evaluate the new policy.

Ms. Chalmers said that the Faculty Consultative Committee asked the Grievance Advisory Committee to consider whether such an office would be useful. The GAC did an interim report that suggested the idea deserved study, which led to the work of the last year that Professor Born described. The charge was given with the admonishment that no new resources would be available. As a result, the working group chose to move forward with the conflict resolution model and to keep the idea of a faculty ombuds under ongoing consideration. All involved in the development of the new policy believe the UGO could provide the services that are needed. The new policy is a mixed model; faculty will have access to ombuds services through her office, Ms. Chalmers concluded. If experience shows that an ombuds for faculty concerns is needed, that option could then be explored.

Professor Kleiner thanked Professor Born and Ms. Chalmers for their report.

3. Health Plan Costs

Professor Kleiner turned next to Mr. Chapman, who wished to make a report in response to charges being made by AFSCME and in a Minnesota Daily article that the University is taking advantage of employees to the tune of $6 million in UPlan medical coverage. He said he wished to inform the Committee about the situation.

There are two accusations: one, from the AFSCME leadership, and two, a mis-characterization of an AFSCME charge. The mis-characterization is that the University has and continues to overcharge employees and departments for the medical plan. That is simply not the case, and the opposite is true, Mr. Chapman said. Costs were more than projected in past years, which they are starting to correct. The University paid out about $5 million toward the cost of the UPlan than projected; it has not profited but instead had additional expenses it had not budgeted for.

An actual charge that AFSCME is making, Mr. Chapman said he could explain. The University sets rates for health care in the late summer for the calendar year that follows. The numbers must be entered in PeopleSoft and provided to people in open enrollment, so they must be developed well in advance. They use an actuary but they will never hit the number exactly right; it is a projection. The goal is to fall within a narrow margin of error. When the rates were set in the summer of 2003, they gave unions advance notice of the University's best guess about cost increases for the 2005 plan year. The University predicted about a 12% cost increase in 2004 and about 13.5% in 2005, based on the best information available from the consultants, employers, and the carriers. Much to the University's surprise, the trends have mitigated and the projection this year for 2005 is "only" an 8.5% increase, not 13.5%. That is good because it is lower than expected, but it is still much higher than the rate of inflation.

The $6 million that AFSCME has identified and charged that the University has put away is the difference between what the University will pay with an 8.5% increase and what it would have paid if the rates had increased by 13.5%. AFSCME is arguing the University should not realize a benefit from the decreased rates and should spend at the 13.5% level and give the additional benefit to employees so that employee costs are flat.

Mr. Chapman said his office believes that is unreasonable. Given current budget restraints, the University cannot afford to spend at that rate without damage to its core mission. The University does not see the UPlan as a profit center; it is only there to provide benefits that all can appreciate in the most cost-effective way possible. It is a partnership between the University and its employees, and they are as transparent as they can be about who pays what, he said. All the information is available in the open enrollment materials.

If there is a surplus at the end of the year, what happens to it, Professor Goldstein asked? Mr. Chapman said that to date the University has not had to deal with that situation, because there have been deficits covered from University general funds. They maintain a limited reserve (the most conservative one they are fiscally required to maintain) that has not been touched. The question really goes to what would happen once the UPlan has paid back the $5 million it has received in general fund support. He said there would need to be a way to pay the money back to the stakeholders—the employees and the colleges and departments.

It could be worthwhile to reward employees, when health care costs are lower than expected, Professor Wiedmann said. They are thinking about that, Mr. Chapman said. They have talked about using any overage to invest in an incentive plan, programs for employees to participate in that promote wellness and health improvement.

Professor Kleiner thanked Mr. Chapman for his report.

4. Endowed Chair Appointment Terms

Professor Kleiner next asked the Committee if and how it wished to pursue a request to the administration that it establish rules concerning the appointment process and terms for endowed chairs. He noted again that there are 379 chaired professorships as well as other support; somewhat less than 20% of faculty have a name attached to their position. The issue is whether there is a policy on who holds chairs. Last year the Committee asked the administration to develop a policy the Committee could react to, but it has not been developed. He said he would like a statement from the Committee that he can take to the Provost requesting a University policy or position on the matter. This is a growing phenomenon, he noted, and there should be a statement or over-arching University policy.

Committee members spent some time discussing the numbers of such positions and how much money is available to support them, collectively and individually. There are many such types of positions, it was noted. The Committee agreed that it wished to have information about the number of the positions and the extent to which they are supported with private/donated/gift funds.

Professor Akehurst inquired if something is broken or if this is a case of a stitch in time saving nine. Or is it someone wanting to be in charge of what they are not now in charge of? Professor Kleiner cited instances where there have been problems and also said it is a matter of accountability. Professor McLoon said he was glad to see that something might come out of the discussion to deal with problems, but said that if a tenured faculty member takes an endowed position, and is subsequently removed from it, the department must still pay, so it is just moving money around. Some of the positions carry additional funds to support the chair holder, Professor Kleiner observed. And what happens when someone is recruited to the University with an endowed chair position, Professor McLoon asked; is it even right to talk about taking the position away? That is part of the question, Professor Kleiner said. Perhaps there would be two tiers and different rules might apply to each. Professor McLoon said the Committee could also consider mechanisms for bestowing an endowed position; that is the question, Professor Kleiner said: how they are appointed and under what terms and conditions. This was a microscopic issue ten years ago; now it is larger and growing. There needs to be some flexibility, Professor McLoon said, in order to use the funds when needed. There is also the issue of donor intent, Professor Litman pointed out.

Professor Kleiner thanked everyone for attending and adjourned the meeting at 4:15.

-- Gary Engstrand

University of Minnesota