

Minutes of the  
NIU Board of Trustees  
**LEGISLATION, AUDIT AND EXTERNAL AFFAIRS COMMITTEE**  
November 13, 2008

**CALL TO ORDER**

The meeting was called to order by Chair Marc Strauss at 9:05 a.m. in the Board of Trustees Room, 315 Altgeld Hall. Recording Secretary Sharon Banks-Wilkins conducted a roll call of Trustees. Members present were Trustees John Butler and Manny Sanchez, Student Trustee DuJuan Smith and Chair Strauss. Not present was Trustee Myron Siegel. Also present were Committee Liaison Kathryn Buettner, Board Chair Cherilyn Murer, Trustees Robert Boey and Barbara Giorgi Vella, Board Parliamentarian Kenneth Davidson and President John Peters.

**VERIFICATION OF APPROPRIATE NOTICE OF PUBLIC MEETING**

Confirmation of Open Meetings Act public notice compliance was given by Parliamentarian Kenneth Davidson.

**MEETING AGENDA APPROVAL**

Trustee Sanchez made a motion to approve the agenda. It was seconded by Student Trustee Smith. The motion was approved.

**REVIEW AND APPROVAL OF MINUTES**

It was moved by Trustee Sanchez and seconded by Student Trustee Smith to approve the minutes of the June 5, 2008 meeting. The motion was approved.

**CHAIR'S COMMENTS**

Chair Strauss welcomed the University Advisory Committee representatives who were present at the meeting, Jay Monteiro, President of the Operating Staff Council, and Bobbie Cesarek, President of the Supportive Professional Staff Council.

Much of the work of this committee does takes place behind the scenes in Springfield and Washington, Chair Strauss said. There has been quite a bit of activity, so, we have a long agenda today which includes the latest reports from Springfield including updated legislative and veto actions from the General Assembly and the Governor, an update on the Fiscal Year 2009 state budget, a report from Washington that includes the long-awaited results of the final passage of the Higher Education Reauthorization Act, now termed the Higher Education Opportunity Act of 2008, new federal rules defining and regulating university conduct in the lobbying arena, and a report on the switchover to direct lending in our financial aid operations. In addition, Bob Albanese and Keith Jackson will give a brief presentation on a proposed new Board policy for fraud detection and prevention, a recommendation from our external auditors. This was an information item at our June meeting and has been added to the agenda today as an action item.

Finally, I want to welcome our new Student Trustee, DuJuan Smith, to the LAEA Committee. I know from our conversations that he has a personal interest in this area and advocating on behalf of NIU and its students in Springfield and in Washington, D.C.

I would also like to recognize the other Trustees present with us this morning, Trustee Barbara Vella and Chair Cherilyn Murer, as well as President John Peters.

## **PUBLIC COMMENT**

The Chair asked Board Parliamentarian Kenneth Davidson if any members of the public had registered a written request to address the Board in accordance with state law and the Board of Trustees *Bylaws*. Mr. Davidson noted that no timely requests for public comment had been received.

## **UNIVERSITY REPORT**

### **Agenda Item 7.a. – 95th General Assembly Report**

The House veto session was canceled, Ms. Buettner reported, and my associate, Ken Zehnder, is in Springfield for the Senate veto session this week. I will be reviewing a couple of issues before we get into further details on the budget. In the General Assembly Report, we included a few bills that had not been acted on as of our last meeting date and summarized the status of each. There are two bills I would like to draw your attention to, Senate Bill 2691 and Senate Bill 2887. Senate Bill 2691 is the Campus Security Enhancement Act of 2008, which was passed and signed into law by the Governor in August. NIU staff have had a tremendous amount of impact not only in the drafting of this legislation, but also in helping the Governor's Office and the Governor's Task Force on Campus Security with their final report as well as getting training started at other colleges and universities. There is a perception at the state level that NIU has a very good training program, and rightly so, since it was in place prior to February 14. That helped us in our response to the unexpected violence that day. Our police department, especially, has been involved with the task force in training and helping to develop training materials for other colleges and universities within the state.

Senate Bill 2887, which the Governor amendatorially vetoed, involves the state contract duration. Procurement code items in Springfield are very difficult to deal with and to pass successfully. The procurement code for any state agency, including the public universities, requires that all purchases exceeding a certain amount be bid, and that also applies to leases. There was a question on whether the 10-year limitation on state contracts and leases included proposed renewals or whether a lease can be renewed after 10 years without having to rebid it.

### **Agenda Item 7.b. – Fiscal Year 2008-2009 Higher Education Budget Update**

We included several charts for you in this analysis. For Fiscal Year 2009, the General Assembly and the Governor agreed to a \$36.5 million increase, approximately 2.7 percent, for public universities over 2008, primarily for faculty and staff salary and retention issues. Not all of that money was available at the end of the session when governor's actions were included. For instance at NIU, our particular increase amounted to about 1.5 percent in GR funds because we have a permanent improvement line in our budget as do Governors State, Illinois State, University of Illinois and Northeastern. The Governor's Office felt that the permanent improvements were something that could be vetoed out and we could find alternative sources for funding those particular issues. None of these vetoes were overridden, so these are our final budget numbers for all of the universities. Several earmarked programs were vetoed out by the Governor's Office and some were left in. Looking at Northern's lines, we were able to hold our CHANCE II funding to enhance our CHANCE program. We will try again, for the third or fourth year in a row, to get that rolled into our permanent budget line. We were all hit hard in the permanent improvements line with the Governor's veto. It was that way across the board; there was no distinction. Table 5 shows how the universities came out overall in the general fund operations and grants. We were above 2.7 percent before we lost our permanent improvements line and ended up at 1.5 percent. Chicago State lost several lines ending up with a negative budget increase for this year, and the rest of the universities averaged in the two percent area. These figures are important because they provide the basis upon which we set our tuition levels. Obviously, it is very important for us to monitor and try to get as much as we can from the state in our General Revenue Funds. The other appropriations which affect us and all the other universities dramatically are under the IBHE grant programs in Table A starting on page 17. And you can see, the Governor's Office took many cuts for higher education out of these grant programs. Basically, he deleted health service education grants, the matching grant program, HECA grants, diversifying faculty in Illinois and P-20 master planning.

Under those grants for diversification, President Peters said, all universities have used their own funds to continue that program to make sure we have a diversified faculty. Our costs are around \$800,000, and

we have had to take that from our own funds. We are going to stay with those individuals as they go through their programs. This is unfortunate, and hopefully, it might be put back this year. I will have some things to say about the cloudy budget outlook later in the meeting. Budgets are not always what they seem. We have had numerous unfunded mandates from both the federal and state governments that have really hurt the bottom line.

In line with what President Peters was saying, Ms. Buettner said, I will get into a little more detail on what those grant reductions mean for NIU. We had three HECA programs approved at the June 2008 meeting that are not going to be funded. The first was a program called "A Hundred Males Preparing for a College Education," which was just under \$100,000. The Illinois Homeland Security Education Center was a program for which NIU was the lead, partnering with seven other Illinois public institutions, to put together a Homeland Security specialization degree program. That was \$333,000 that was not funded. Novel Initiatives for the Underrepresented Groups, a \$155,000 grant, was rescinded as well. So, while we were able to get approval from IBHE at the June meeting for these particular grant programs to start up and continue, unfortunately, we will not be able to proceed with them unless we obtain those funds internally. The Illinois Minority Graduate Fellowship Grant is another program on faculty issues regarding diversification that was eliminated. In FY09, we were approved for one new award and 15 continuing awards, and that program resulted in a \$230,000 budget implication for NIU to keep that particular item going.

We have several other programs within DCEO not shown in this report that were also cut. We have received approval for a renewable energy grant and a standard base performance contract grant totaling just under \$500,000. We do not have any employees that will be paid from those particular grant programs, but those programs have been eliminated as well. So, as the President said, there is more to the budget than just what the numbers on the chart show. There are programs that have staff or faculty directly on what we call soft money lines, or we have programs in outreach areas that we will have to decide whether to close down or not start up based on these decisions the Governor has made in the amendatory vetoes. Table 12 gives more information in a line-by-line comparison about these grant programs, the diversity grants and other areas that were eliminated. This is the actual appropriation data that we are operating with at this point. A dash or hash mark in the General Assembly action line for 2009 and the Governor's action line means that item was completely eliminated, and the dollar change is shown.

Noting that, excluding Chicago State University, NIU seemed to have received the lowest increase of the universities, Trustee Sanchez stated that he found it troubling and asked if that was an anomaly this year or if it was done regularly. We were just under 2.9 percent before the permanent improvement cut, Ms. Buettner said. Historically, NIU has tried to avoid putting on additional fees for capital improvements and permanent improvements as some of the other universities have done. As a state institution, we believe strongly that this is the state's responsibility. You know as a Board that there has been strong concern about raising fees versus affordability for students. We have been relying on the State's permanent improvement money. So NIU has been one of the last institutions to add fees to cover this. Some of the other universities put these fees on earlier and decreased their permanent improvement lines as a corresponding measure, so they were not hit as hard when the permanent improvements line was deleted. However, because we feel strongly that this is the state's responsibility, we have tried not to pass this on to the students until we absolutely had to do so. In order to maintain safety and continuous improvements, we now have to increase fees.

To clarify, President Peters stated that his budget starts out with everyone receiving the same percent of their base and then have certain adjustments made. It is my stubbornness, he said, to resist taking that permanent improvement line and put it toward previous budget cuts and taxing students, first because I do not believe we should charge a dime more than we need to so our students can have access to this education. But also, I firmly believe and will continue to believe that we are a state institution, and it is the state's responsibility to invest in our academic physical plant. We use our local funds and auxiliary money to build residence halls, sports complexes and other such structures. But academic buildings are state, and they should be maintained by the state. As I told my colleagues, once you take this responsibility on at the institution level, the probabilities drop to zero that the state will ever take back that responsibility. What happened here is the state had to find money to balance their budget, so they took everybody's permanent improvement money, and NIU was one of the last survivors. That is why this

Board, at our last meeting, approved the small fee to plug that \$1.3 million gap, because we have to repair roofs, potholes and so forth.

Given what is happening in the economy generally, Chair Strauss asked President Peters to comment on the prospects that the state will have the revenue reflected in our budgets.

This is the 2009 budget figure that we accepted. The Board approved how we were going to internally allocate what is called for by statute and by BOT *Regulations*. The state's overall budget for this year, for all functions, is not in balance. So, the revenue that has come in and is coming in does not meet the obligations that are in the state budget. The legislature, working with the Governor, has been unable to plug this \$2.1 billion and growing gap. It is \$2.1 billion on a \$53 billion budget, and the state has to close that gap. Unless they find other revenue sources, to close that gap, there are indications that it is going to grow until the end of the fiscal year. A recent report showed that casino receipts are down and income tax receipts are down, so that gap is going to grow. To balance the budget, the state has been trying to find other sources of revenue, but they cannot come to any agreement. The other way or some combination is to rescind or pull back the budgetary authority that is out there. So, all the presidents are very concerned about this. We are being prudent and watching our expenditures because we have the authority to spend this money, but if we spend it and then we are asked to rescind, we have nothing to give back. This institution, historically, has been very prudent and careful in its budgeting; therefore, we have put into place the usual kinds of cost containment and prudent measures on hiring, travel and so forth. But it is a little more complicated than that. For everyone in the state, payments from the State, based upon their \$53 billion budget have not, in many cases, been timely. Therefore, like anyone, we look at our checkbook and pay the bills. We have not received state transfer payments in as timely a manner as we would expect. I would not be doing my job if I did not inform the Board and the community that the future will be challenging fiscally, and we will all have to pull together with prudent action now, because prudent action now will make it possible for us to meet any budget contingency that arises.

Building a budget for 2010, as we move forward, if there is a reduction in our base, that is a permanent reduction in our base, and that is a different kind of budget strategy, which requires even more careful thinking. Many of us just came back from the national land-grant meetings held in Chicago. I spent a lot of time with presidents of many of the public universities in the country, and the meeting was dominated by this issue. Many states are facing double-digit base cuts, both midyear and for next year. We have been through this before and we will get through this time, but it is going to be a challenge. We are trying to balance maintaining this excellence in education, and at the same time making sure that we provide the access necessary to these students who really deserve an NIU education. We will come through this, but we are going to need the support of the Board and your good thinking, and we are going to need the support of all of our faculty, staff and all other employee groups. We are likely to go through more than belt-tightening. So we have to stick with our principles. We have to be clear about what our principles are and pull together. We have weathered tragedies at this university recently by standing together, and we will have to do the same with this.

Chair Murer asked for a brief commentary from the President or Ms. Buettner about the Harper College bachelor degree program and its impact on the current discussion.

The legislature did not pass that bill, Ms. Buettner said. A new General Assembly has been elected and will take office in January. Based on conversations with the members who supported it previously, we expect this legislation to be introduced again at the beginning of the session. It has been introduced for the last three or four years, and we have worked diligently to communicate to the General Assembly the fiscal issues as well as the policy implications of allowing community colleges to offer baccalaureate completion degrees. We are in the process here at NIU of working on even more outreach and more programmatic applications with our community college partnerships than we have already. At this point, it is just Harper that has offered this legislation. They have done it on a pilot program basis and they have said to the General Assembly that they will not use any state money to offer this baccalaureate degree in this pilot program. Interestingly, the president of Harper was named this week as the new president of the College of DuPage beginning January 1. He is a very aggressive community college president, and we fully expect that he will carry this agenda with him to the College of DuPage. We have 18 community colleges in our service region. Of the community colleges, Harper is a large feeder, but College of DuPage is NIU's largest feeder school. This legislation, if it ever passed, would impact all the public

universities, but it would impact Northern greatly because of the location of our institution and the fact that we have 18 community colleges in our service region. So we maintain and try to enhance our relationships with other community colleges through the degree programs we are offering on their campuses. But it is all done in a manner in which there are no new revenues, so it requires reallocation internally.

Chair Murer also asked, because of this economy and because of the cuts, if it is making this type of proposal less attractive to the General Assembly and would that make it less probable to pass in 2009 than it might have been in 2007.

A lot depends on cost, demand and access, President Peters said. Kathy did a good job of giving the general context. Depending on the year, 40 to 42 percent of our undergraduate population consists of transfer students. Of that number, about 80 to 90 percent are community college transfers. Therefore, historically, and currently, our relations with community college are something we work at all the time. We constantly try to carefully articulate between the community college and our degree programs. By and large our faculty have been very good and very flexible in working with that, and we have to continue to do that even more so. The good news is that we are blessed to be in the region of the state that continues to grow in population. The bad news is that everyone in the region recognizes that. We operate in probably the top three or four competitive education markets in the country, and competition is fierce.

We have had a good discussion about this on the legislative side, Chair Strauss commented. But there are other facets to this question relating to our academic integrity as well the cost structure that probably should be addressed by our other committees. Chair Murer asked that both the Finance and Academic Affairs Committee Chairs consider this on their next agendas and integrate it with the Legislation Committee because this is a problem that permeates the entire university.

As a former member of the Kishwaukee College Board, Trustee Boey said, I asked a question when we were all in Springfield and never really got an answer, but I think this has to be asked. Typical funding of community colleges includes local taxes with the state currently funding one-third. Once you go into a four-year college, who is going to replace that community tax? Certainly not the local people. That to me was one of the biggest questions, and I wonder if the legislators in Springfield have considered the funding side of it. We did talk about that, Ms. Buettner said, and we try to bring up the policy implications because of the funding issues. What do you do when you have a top quality community college system like we do in Illinois? Do you endanger that system by permitting them to go ahead and offer four-year degree programs when we already have nine public universities in the state? However, the average legislator supporting the bill looks at it as "It's just a pilot program. The economy's bad, let's give it a shot and see what happens." That is the argument at this point, because it is a pilot program in the legislation. There is the issue of creating it and then what do you do with it? It has to go for three or four years to allow the first group of students to be able to get through. How would they get accreditation? There are many issues involved in this that, frankly, I do not think most of the legislators have considered as they discuss this issue.

### **Agenda Item 7.c. – Congressional Report**

This report was a summary of some of the major higher education initiatives pending in Congress the last few months, Ms. Buettner said. The emergency supplemental legislation, which included a new program of educational benefits for veterans passed just before the July 4 recess. Another bill introduced by Senator Durbin later in the summer is a bill our campus had discussions with him about in the aftermath of February 14, and the Judiciary Committee staff helped to shape this bill. The bill would create a competitive grant program within the Department of Education to provide funding to colleges and universities in order to reach out and identify students with mental health needs and find and enhance the treatment opportunities for them on campuses. In addition to the substance of the bill, from a university operational standpoint the most important part of that description is the last sentence. An issue on which we had extensive discussion with Senator Durbin and the Judiciary staff was developing an interagency working group on college mental health to discuss behavioral concerns and promote federal agency collaboration. One of the key issues in the aftermath of February 14 that we struggled with from the administrative perspective is everybody wanted to come in and help, whether a federal agency or a state

agency, all having different programs. Nobody was talking to each other, and it was left to us to try to sort out which programs would be effective for our students and find out which way they could be covered. Senator Durbin's office recognized this early on, and we were interviewed extensively by the Department of Education. We have had meetings with the Judiciary Committee staffers and Senator Durbin's office. President Peters has been involved in discussions as well to try to get this point across, to encourage and put some teeth in legislation that would force the federal agencies to come together ahead of time and develop a task force so some of these issues can be resolved. God forbid this happens again, but whether it is at a university or a shopping mall or wherever, there would be a task force of people that have already integrated their programs that can come in and assist the families and the students or the parents in helping and meeting the needs of these people at the time rather than having such administrative paperwork and bureaucracy to sort out these programs, which can be, without realizing it, in competition with one another. So we were excited about that particular bill.

The IRA charitable rollover provisions expired as well as the tuition provisions at the end of 2007. I am pleased to tell you that they were restored as part of the bailout bill that passed on October 3. On the following page is information about the bailout bill and what it contained for higher education. Basically the above-the-line tuition deductions for educational expenses were restored in that bailout bill as well as the tax-free IRA withdrawals for charity, which helps our Foundation and our endowment programs.

As far as the appropriations update goes on the federal level, on September 30, the last day of the federal fiscal year, President Bush signed into law the Consolidated Security Disaster Assistance and Continuing Appropriations Act of 2009. Basically, this act provided a continuing resolution with funding at FY08 funding levels for most of the federal agencies until the new president and the new congress take office and begin work on a new FY09 budget. However, several appropriations bills were contained therein – Defense, Homeland Security, Military Construction, and Veteran's Affairs. Those particular bills went through the whole appropriations process with actual FY09 numbers in them, so those agencies have FY09 budgets. The remaining agencies, which is the vast majority of the federal government in terms of operational status, is operating on FY08 budget numbers until the new administration can pass the FY09 budget. From the appropriations that did pass, we received a total of \$8 million in federal Department of Defense grants to continue to develop three programs that we have been working on for the last few years. The first is the Proton Treatment and Research Center, the second is continued funding for our Institute for Neutron Therapy with FermiLab, and our third is additional funds to continue our ROCK (Rapid Optimization of Commercial Knowledge) program, an engineering and manufacturing infrastructure program designed to help the community of Rockford. So, we would like to thank, particularly, Senator Durbin and Congressmen Foster, Manzullo and Lipinski for their continued bipartisan support on these projects. We have a very good delegation that we just cannot say enough about in terms of supporting this university and our research initiatives, not only here in DeKalb but in the region.

#### **Agenda Item 7.d. – ACE Analysis of Higher Education Act Reauthorization**

We could spend a whole meeting on this, Ms. Buettner said, but the American Council on Education (ACE) put out what I thought was the absolute best analysis of the Higher Education Act Reauthorization legislation that I have read anywhere. I basically edited it slightly and put it in your report, but I want to give credit where credit is due. It is an ACE report. We have talked for five years about this bill. I want to go through a couple of issues and how they actually turned out in the legislation. Chair Strauss and I have discussed this, and we thought we would try to break this bill down over the next year to year and a half in our committee and, because it is such a far-reaching bill, take a couple of issues and get into them with presentations about how these particular issues affect NIU and how we are doing in implementing them across the campus.

The first issue, of course, which remains a major issue, is college costs. All kinds of proposals were floated over the last five years and we wound up with a Department of Education College Affordability and Transparency List that will begin in several years. This means we will have to submit in template form all kinds of data that are yet to be set by the Department of Education – new reports, new surveys, new IPED data, things that will be required for us to submit along with every other public and private university, and the Department of Education will be putting these on some sort of Department of Education web site that will be created in the next few years. They are going to be publishing data putting

the universities and colleges in nine different categories, and they are going to name the top five percent of institutions which raised tuition above the net cost of living.

We will also have to provide data which will allow the Department of Education to help fashion a Net Price Calculator so that, for instance, they can go to NIU within this Department of Education web site, click on it and they can see what their net price is going to be five years down the road. So this is a very significant mandate with no funding, and it is going to require a lot of data collection and a lot of research and analysis to implement, which is why the implementation date is so far out. The one thing I want to point out about that particular issue is the state commitment. There were many provisions introduced which, frankly, the public universities aggressively supported, that would basically penalize a state if they decreased the amount of state support for their public higher education institutions. This was the first time that the federal government tied state appropriations to tuition levels. We in public higher education know they are tied, but the fact that the federal government would obviously recognize that in the form of legislation was quite monumental. The National Governors Association lobbied aggressively against that provision. So the provision basically says that the state has to maintain a minimum level of expenditure equal to the average amount provided, taking out noncapital and nonresearch and development expenses for the five most recent academic years. That sounds great, but if the state violates this provision, the Department of Education will withhold the amount of any federal grant to the state under the College Access Challenge Grant program. Unfortunately, the penalty is not very onerous for a state that does not comply.

Accreditation was also one of the more controversial topics. There was a big fight between accreditation agencies, the Department of Education and institutions and who should accredit and who is going to maintain that power. Basically, the institutions have been recognized as holding the power to set student achievement measures, not the accreditors. It also forbids the Department of Education from establishing certain parameters for standard accreditors to use in assessing their success. The different provisions in accreditation are listed, and we will get into this issue in more detail at a later meeting.

While most of the Title IV Student Financial Aid Provisions programs were not in this bill, they were in another college cost reduction act we talked about approximately eight months ago in this committee, and there were a couple of issues that were addressed in this particular legislation. They authorized the maximum Pell Grant awards making changes to the program that said students are eligible to receive them on a year-round basis. Again, this encourages persistence and reduces time to degree. They put in maximum and minimum award limits and limited eligibility to 18 semesters or the equivalent. A provision was added for students whose parent were killed in one of the wars as well. There are a few things included about veterans, but the Veterans Act provisions were handled separately. The Plus Loan Deferment allows graduate students to receive an in-school deferment on their Plus Loans. Parent borrowers had this already in the College Cost Reduction and Access Act, and the financial aid application process will be simpler. I am sure all of us who have ever applied for financial aid will be very glad to hear that.

On page 26 is a list of requirements or mandates in the legislation that have been given to every university in the country, whether public or private. This, again, is the result of a five-year discussion in Washington.

For Campus Safety there are expanded requirements under the Clery Act. Also there is a provision that we have to notify students, staff and faculty of a significant emergency immediately.

Peer-to-Peer File Sharing we have talked about repeatedly. We must have a plan to combat unauthorized distribution of copyrighted material. Wally Czerniak has that plan. We are in compliance with this issue. We actually have been on the forefront of this issue for a long period of time. Because we have on-campus housing, we have to publish annually a fire safety report which provides statistics on a dormitory by dormitory basis. We are going to talk about Textbook Cost Containment, an initiative from Sen. Durbin that will be effective July 1, 2010, later in the meeting.

Transfer of Credits was another issue that followed under the accreditation issue. We have to publicly disclose our transfer credit policies, including the criteria related to transfer credit earned at another institution. Accreditors, when they come in to continually accredit us, have to evaluate our compliance

with those policies that we are stating. The act does clarify that the disclosure requirement creates no legal right to require institutions to accept transfers of credit. The federal government, for the first time, will regulate through Sunshine Provisions not only federal student loans but also private educational lending. We are required to have a code of conduct covering a wide range of prescribed items, we have to put this on our web site, and we have to inform annually all officers, employees and agents with education loan responsibilities of this code of conduct.

In Teacher Professional Development in Title II there are basically quantifiable goals. Each college or university that receives Title IV student aid and operates a teacher prep program is to develop annual quantifiable goals for increasing the number of high-need teachers. Report Cards tie in with the state report cards on the quality of our teacher education programs. Again, we are required to submit data. There are several data requirements that will take a lot of time and probably some reworking of our database methodologies across the university to collect and be able to comply. We are not alone in this effort, everybody will be faced with this. International Education is listed there. The act authorizes various studies. The one that pertains to this committee that we talked about at the last meeting was the analysis of the endowments. There was actually legislation proposed in the last six months that would require universities to draw down five percent of their endowments. That legislation died, but there is a desire on behalf of Congress to analyze the endowments, particularly at the major universities and how much are being drawn down to support student assistance, tuition aid and the like. So, the comptroller general will conduct a study of the amounts, uses and public purposes of college and university endowments. Again, this is primarily directed at the large universities with the billion dollar-plus endowments.

The next reauthorization period is scheduled to occur by September 30, 2014. And if this is any indication, it will be 2016 or 2017 by the time it is actually done. But you can see, the bill is obviously far-reaching and has many implications, but now we will begin the process of implementing it over the next five years.

#### **Agenda Item 7.e. – Higher Education Opportunity Act of 2008 Textbook Cost Containment Requirements**

As I mentioned earlier, Ms. Buettner said, Senator Durbin introduced legislation on the textbook cost containment requirement earlier in the season that was enveloped in this Higher Education Reauthorization Act. By summer 2010, it requires institutions to disclose in course schedules the ISBN number of every required and recommended textbook and the retail price. There is a concern because the GAO studies to members of Congress show that the average freshman at any public or private university in the country spends \$900 a year on books, obviously a significant cost. I am going to ask Gip Seaver and Brent Gage to brief us on how we are doing at Northern. Senator Durbin is very interested in this and has asked the presidents of the public universities to work hard at establishing this earlier than the 2010 date called for in the legislation.

The Higher Education Act Reauthorization is getting a lot of press, Vice Provost Seaver said. This specific section addresses college costs by looking at the cost of textbooks. They use the terminology of enhanced transparency and disclosure with respect to the selection, purchase, sale and use of course material. Basically, the intent here is for a greater sharing of information and, in some cases to reconfigure how textbooks and classroom materials are sold. This is to begin July 1, 2010. For us to be able to comply with this, we have to be ready to go as of April 2010 when the first enrollment periods begin for summer and fall. So, our time window is very short just in terms of trying to implement it to meet the letter of the law.

There are three main areas to this bill. One addresses what publishers are going to be required to do and the kind of information that they will have to provide, along with any kind of textbook marketing materials that they plan to make available to the faculty. This is for any Title IV institution that receives federal aid. Basically, as they market to the faculty, they will have to talk about the price that would be charged at our campus for any kind of textbook or materials, the price that would be charged to the public, the copyright dates of the three previous versions and a description of what has changed from one version to the next. There have been questions raised about why a textbook is changing, whether the textbook will be available in any other format such as a paperback or an unbound, and if there are differences in the



prices. One of the big complaints we hear from students and others is the concept of bundling where you buy the textbook and a CD or a DVD comes with the textbook. The publisher will have to now sell any of the supplemental materials separately. So, the concept is to unbundle so that if the student does not want the DVD, they can just buy the book. That also helps in terms of buyback of used texts. The \$900 a year figure quoted quite often is not a net price. It does not take into account that the student can sell back the book. We have determined that the cost is much less for our students when looking at the buyback provisions.

As far as the institution, we are going to be required "to the maximum extent possible" to provide this information to the student at the time of registration, and if the registration involves a written format, then the information has to be provided in a written format or on-line for those NIU students who register through MY NIU on-line. So our information has to be available at the time of registration for each particular course, we have to provide the ISBN number for the text, any kind of additional identifying information and the retail price for all of the required and recommended books and supplemental materials for each course offered. To date we have started to meet on this with faculty and a number of other groups. One of the first things we had to find out is whether we could use our new system, MY NIU, to do that. We have contacted a number of other institutions that are using the same product we have, and when the student goes to the course to look at that course, there is a little icon they click on for textbook information. One of our big concerns was whether our new system could handle this and it appears that it will. Our bookstore provides a very good comprehensive list of the texts. Ever since I came to NIU, our faculty have been required to fill out a form that talks about the textbook, the ISBN number and anticipated enrollments, and those go not only to the university bookstore but also to the Village Commons Bookstore. The Holmes Student Center Bookstore maintains on their web site a listing that they update daily. We will have to look at when faculty submits those requests for textbooks and adjust that process forward or move registration dates back to give them the time to do that. We are working with Paul Stoddard and the Faculty Senate on this procedure in order to get compliance to the maximum extent possible.

Another component is that the institutions need to provide the bookstore with information about our courses and books. We have done that ever since I have been here, so that is something we do already. The other thing is to share information with the students regarding textbook rental programs, which we do not have currently, guaranteed textbook buyback programs, all the different options available to students. We do that in various formats, but is not consolidated in one particular point. So the two major things we have left to do are getting that piece together and working with our faculty, and we will be up and going. In order to implement it early, we must have everything done by November 2009 for the January 2010 registration. If we can, we will implement it early; but we will be ready to go by the July 1, 2010 deadline.

I read with interest just a couple of days ago where our President-elect also has taken a tremendous interest in textbook costs, Trustee Boey said, but his concern was about a professor writing a book and then insisting the class use that book. We have a policy that professors cannot receive royalties for texts that are sold as a part of their class, Vice Provost Seaver said. Actually, for them to require that text, they have to go through a process at the departmental level and show why that text is required versus all the others. So it is rigorously controlled by the departments and the colleges. But if that textbook or materials are adopted, and a royalty is associated with it, an NIU faculty member cannot receive those royalties, and that is controlled at the point of sale. That process is in our Academic Policy and Procedures Manual, and our deans and department chairs are well aware of it.

Trustee Butler asked if they were specific in what they meant by "course schedules" when the language stated to disclose their course schedules "to the maximum extent possible." I suspect that providing a printed schedule would be difficult to accommodate compared to an on-line schedule, he said. Fortunately, about four years ago NIU did away with a printed schedule. The problem with a printed schedule is that you have to print it so early, by the time it comes out, it has a thousand errors in it because faculty are changing rooms and buildings and that type of thing. Scheduling has been strictly on line for about four years. Because of the dynamics of our system and the bookstore web site, we will be able to keep that up to date. Where the problem "to the maximum extent possible" comes in is, quite often we know, for example, we are going to have X number of sections needed in communications but we do not have the faculty member or the book, so the provision states to insert "to be determined."

I am completely in favor of this, Student Trustee Smith said. I actually wish it had been implemented a couple of years earlier, maybe that would have saved me a couple of dollars on some of my extremely high textbooks. This approach gives students all the information they need to know at registration so they can decide not just if they are ready or willing to take a class, but it provides the opportunity for them to buy their textbooks in advance and really get a head start on mastering some of the material before they enter the classroom. It will help to increase the students' ability to promote a healthier dialogue as it relates to the course material. So, I think this is a wonderful initiative and cannot wait to see it happen.

As a person who works primarily with undergraduate students, Dr. Seaver said, it is unfortunate we had to go to the extent to make it a federal mandate. We have always tried to work here on campus with our faculty on keeping our costs down, as the President said, and that includes textbooks and materials. A number of units have worked with our faculty trying to develop the supplemental materials, parts of textbooks, etc., and we have a very good program in that. As you know, often in some of these areas, if you can work with parts of textbooks or parts of materials, you can cobble that together in a course material pack that is much less expensive than buying a textbook that you hope covers it, and our faculty have done a very good job of that.

#### **Agenda Item 7.f. – Federal Lobbying Disclosure Act**

This act has significant implications for all of higher education, Ms. Buettner said, both public and private universities. The Board of Trustees of Northern Illinois University has been registered as a federal lobbying entity with myself as the in-house lobbyist for the last five years or so due to the fact that I sometimes spend more than 20 percent of my time on federal issues. That is the criterion for registration. There is an expense report that now has to be filled out four times a year. As the President said, the mandates and the disclosure are becoming much more onerous. It is important to bring these new changes to this committee's attention as well. New policies are being developed to comply with this particular new federal regulation, and I am going to need additional information from deans and department heads on a quarterly basis to make sure that the university complies appropriately under these new regulations. I have been working with Ken Davidson and Greg Brady in the General Counsels' Office extensively for the last few months in trying to put together this information. So I thought it was appropriate to ask Greg to give the Board a sense of what is involved so that the campus community also has a sense of why there are going to be new forms that people will be asked to fill out routinely and submit so that we are in compliance.

I first thought I would give you a quick breakdown of what the Lobbying Disclosure Act (LDA), which has been effective since 1996, really required. It required entities to register if they met certain thresholds for lobbying activities, and there were two primary tests for this. They are for lobbying firms if they receive total income for lobbying activities that exceed or were expected to exceed \$2,500 for each reporting period, and there is also a test for organizations that employ in-house lobbyists. If their total lobbying expenses exceeded or were expected to exceed \$10,000, they were required to register. The registration limits that I have presented here are the new registration limits; the old ones were about twice as much. That means we are going to have more lobbying firms and more organizations registering with the federal government.

Initially, what was supposed to be reported under the LDA was to be reported to both the Clerk of the House and the Senate Secretary. The initial LD-1 report registers our organization specifying who our lobbyists are. On the second quarterly report known as the LD-2 the organization discloses what lobbying activities it performed within the quarter as well as expenses incurred to conduct those activities. It was a lump sum of the amount we spent that included the salaries, direct expenses, overhead, etc. of individuals who performed those activities. On that form, we could add or terminate lobbyists in our reports to the federal government. The LD-2 form report was required on a semiannual basis and is now a quarterly report.

Lobbyists are considered to be those employees who make "lobbying contacts" and spend 20 percent or more of their time on "lobbying activities." Lobbying contacts are oral and written communications in which you try to sway a federal official, legislative or executive, on a federal issue like laws, regulations, rules, policies or programs. Lobbying activities then consist of not only contacting a covered legislative or

executive official, but also the efforts in support of those contacts, such as research or follow-up after the contact.

In 2007, the Honest Leadership and Open Government Act was passed and became effective January 1, 2008 and amended the Lobbying Disclosure Act. There are eight significant changes to the Lobbying Disclosure Act, and those have been outlined in your Board reports. But I wanted to bring to your attention two primary changes – new reporting requirements and new certification requirements. The intent behind the amendments is to provide more transparency to the public about lobbying activities being conducted on the federal level. The report under the Honest Leadership and Open Government Act is a streamlined process mandated to be done electronically. The House and the Senate have combined their efforts to do one web-based filing. When an organization files, it is done once and goes to both houses.

Both the LD-1 and LD-2 are still required, but now there is also an LD-203, which serves two purposes. Each organization registered with the federal government and each of their lobbyists have to file this form. First, the lobbyists and the organization have to disclose contributions that are made, essentially, to federal, legislative and executive officials, or made by any political action committee that is controlled or maintained by the organization or its lobbyists. Second, the organization and its lobbyists have to certify that they understand and comply with congressional gift and travel rules. The reporting period for the LD-203 is semiannually. So, there is LD-1, which is the initial filing; LD-2, which is done on a quarterly basis; and LD-203, which is done on a semiannual basis.

The contributions reporting system contains six general areas of contributions that need to be reported. They are (1) contributions made to federal officeholders or candidates for office, leadership PAC's or political party committees; (2) funds paid for an event to "honor or recognize" covered legislative branch officials (Many institutions of higher education do not contribute directly to political candidates, but they may honor legislators; therefore, we have to keep in mind that if an institution of higher education does that, it may be reportable now under LD-203); (3) Funds paid to an entity or person who is named for or in recognition of a covered legislative branch official; (4) Funds paid to an entity established, financed, maintained, controlled or designated by covered legislative or executive branch officials; (5) Funds paid for a meeting, retreat, conference, event, etc. held by or in the name of covered legislative and executive branch officials; and (6) Funds paid out to presidential library foundations or inaugural committees that are greater than \$200. But even if an institution or its lobbyists never make a contribution, they still have to file the LD-203 because of this next section, which is the certification.

*"I certify that I have read and am familiar with the provisions of the Standing Rules of the Senate and the Standing Rules of the House of Representatives relating to the provision of gifts and travel. I have not provided, requested or directed a gift, including travel, to a Member of Congress or an officer or employee of either House of Congress with knowledge that receipt of the gift would violate rule XXXV of the Standing Rules of the Senate or rule XXV of the Rules of the House of Representatives during this filing period."*

Both houses have web sites where these can be viewed: <http://rules.senate.gov/senaterules/> and <http://www.rules.house.gov/ruleprec/110th.pdf>. The Senate Select Committee on Ethics is the Senate committee that oversees compliance with these rules. In the House, it is the House Committee on Standards of Official Conduct. While those links go to the entire set of rules, the certification only goes to Rule 35 in the Senate and Rule 25 in the House. Those two rules mirror each other very well, but there are approximately 24 exceptions to the gift ban in the Senate and 23 in the House. In short, members, officers and employees of each house are prohibited from accepting gifts except as provided in those rules. Both rules contain the provision that gifts under or equal to \$50, can be accepted with an annual limit of \$100 from each source. However, the rules as drafted do not allow this type of gift from even lobbyists, which is a little odd. It is so odd, in fact, that many high-profile law firms who have congressional clients are advising their clients to not follow this \$50 limit any more. A gift is any item having a monetary value, but it can also include services, lodging, transport, meals, gratuities, etc. And, again, there are numerous exceptions to the gift ban – 24 in the Senate, 23 in the House. Among those listed are some of the most common: lawful contributions; gifts from relatives; based on personal friendships ≤ \$250; informational materials; anything paid for by federal, state or local government or government contract; nominal food; and nominal items.

In these two rules, is not only a gift ban, but a travel restriction. In general, travel is treated as a reimbursement. Even though it is falling under the gift rules, the legislative member is being reimbursed for the travel that could be provided by somebody else, and the restrictions here are very tight. In general, lobbyists are prohibited from paying for the privately sponsored travel of a covered legislative official unless there is prior approval by that member's house committee. The lobbyist cannot arrange, plan, organize any of the travel for them, even if they do not pay for it, and they cannot accompany the legislative officials on the trip. Members and staff who are considering receiving reimbursement for travel must seek prior approval and certify to their respective committee that lobbyists were not involved in planning or carrying out the trip. In the House rules, these prohibitions do not necessarily apply to institutions of higher education if they are the source of the reimbursements, even if they hire lobbyists. But, the member or the staff member still needs to get prior approval. So, if an institution of higher education wanted to reimburse a member for travel, the member still has to get prior approval and, therefore, is subject to the respective committee that that member belongs to. However, there is no such condition in the Senate Rules. Both ethics committees are supposed to release de minimus guidance for situations such as if you were on the same plane, but no business was being conducted, then you should be able to do that.

Obviously, there are increased penalties, both civil and criminal. Civil is an up to \$200,000 fine; for criminal, there can be imprisonment, a fine or both. Under these penalties, there is a provision for the House Clerk and the Senate Secretary to first make contact with lobbyists who they think have violated or have a conflict with their filings, ask that lobbyist to correct the filings, and, if they fail to do so, they can make a referral to the Department of Justice to enforce the penalties. There are audits on any of the filings under the Lobbying Disclosure Act as amended by the U.S. Comptroller General. Those are annual, random and they result in a report that is presented to Congress.

I would like to add that those random audits started this past year, Ms. Buettner said. Several of the major universities have been subject to them. One of the provisions that Greg did not emphasize because it was not in his part of the presentation is that a requirement of these audits is public colleges and universities have to prove, under this new legislation, that we have educated our faculty and staff on this, and we have to be able to document the process by which we did so and have it available. So, External Affairs has drawn up a draft and we are right now in the process of having University Legal Services review it. This will be posted in a web site document communicating all of these rules. There also will be a set of forms that department heads and deans will have to certify quarterly for us to comply. They are going to have to document all of their federal contacts, whether agency or congressional, so that I can make a decision, with Legal's advice and help, as to what constitutes a lobbying contact and what does not. We discussed putting this on the agenda with Chair Strauss because the penalties are substantial for noncompliance, and it is important for the campus to understand that it is not External Affairs that is asking you to document everything. This is a federal regulation that we are all subject to, and we are subject to random audits on it as well.

#### **Agenda Item 7.g. – NIU Financial Aid and Student Loan Direct Lending Update**

Ms. Buettner asked Brent Gage, Assistant Provost for Enrollment Services, to give the Board an update on the NIU Financial Aid and Student Loan Direct Lending program.

We are back a year later, Mr. Gage said, and we bring you good news. Last year, we were in the process of transitioning into our new student information system. One of the charges we had was to examine our current mode of operation, look at the practices in place and figure out how we could best leverage and serve our students. Through that process, we decided to make the transition from the Family Educational Loan Program to the William D. Ford Direct Lending Program. As you are all aware, since that decision was made, the student lending market began to crumble, and three of the five biggest lenders that our students had traditionally used are no longer in the student loan business. So we made this transition at the perfect time. Under the old program, we worked with the Illinois Student Assistance Commission as our guaranty agent. It was a big transition to move away from that program into the William D. Ford Direct Lending Program in which students borrow money directly from the federal government. As of this year, we have awarded \$45.7 million in subsidized Stafford Loans and \$47.5 million in unsubsidized Stafford Loans. The process is incredibly simple both for students and staff. We had a student loan area

of four full-time employees. Three of those employees relocated to different areas and responsibilities. We now have one person coordinating this process for our institution of 25,000. It is incredibly efficient, a single promissory note is signed and we are able to adjust loans and make changes on a same-day basis. It is very seamless to students. We have had very few if any complaints. It was the right decision at the right time, Mr. Gage concluded, and we could not be more happy to be part of direct lending, especially as it relates to our new student information system.

#### **Agenda Item 7.h. – Policy for Fraud Detection and Prevention**

Ms. Buettner asked Bob Albanese to brief the Board on this item, which is a follow-up from the June meeting.

This proposed policy is a result of an audit finding that we reluctantly agreed to since we believe we already have a fraud detection and prevention program in place, Mr. Albanese said. Over the last few years any time there has been an issue, we have addressed it quickly with the program we have in place. But the audit finding was there, and we had to come up with a program of compliance that will satisfy the auditors. Keith Jackson and I surveyed other schools in this area and looked over a number of web sites, and decided on what we thought was the best approach. We wanted to make this part of the budget review process since it is something that happens on a fairly regular basis here on campus. So we want to expand that and get positive confirmation back from each department head that they have reviewed some of this criteria, acknowledge it in writing and send something back that the Controller, Dr. Williams and I can review and take follow-up action.

This policy is in the form first presented for discussion, Chair Strauss said, and states that any fraud that is detected or suspected must be reported immediately to the Chair of the LAEA Committee. But we had conversation about notifying the President and the Board Chair, and we also had some discussion about whether the internal auditor should be notified as well. The protocol that is in place right now if we become aware of an issue is that the Director of Internal Audit and the President are the first people we notify. We revised the wording of the policy to include the President so that President Peters would be informed at the outset if there is an issue.

Subject to comments that others might have, Chair Strauss said, we need a motion to amend the policy statement to reflect the additional recipients of notice. May I have a motion to amend and add, before the words “Chair of the LAEA Committee,” “the President, the Internal Auditor, the Board Chair, and ....”? Trustee Butler so moved, seconded by Student Trustee Smith. A roll call vote of the committee was as follows:

Trustee Butler	Aye
Student Trustee Smith	Aye
Chair Strauss	Aye

The motion was unanimously approved.

#### **OTHER MATTERS**

Earlier this month, President Peters said, I had a visit from our Director of Internal Audit, Sharon Downen, indicating her unofficial intention to retire at the end of the year. So I want, first of all, to thank Sharon for her outstanding, professional service as we developed standards in a professional internal audit department that is lean and mean. And once I receive her official notification, we will launch an immediate search for a Director of Internal Audit, which is a Civil Service position, so people have to be tested and be on the register. Again, we want to thank Sharon for her years of service as we have developed our internal audit function.

#### **NEXT MEETING DATE**

Our meetings for 2009 have not yet been scheduled, Chair Strauss said. We will review a tentative schedule at the full Board meeting in December for all 2009 Board and committee meeting dates.

## **ADJOURNMENT**

Chair Strauss asked for a motion to adjourn. Student Trustee Smith so moved, seconded by Trustee Butler. The meeting was adjourned at 12:40 p.m.

Respectfully submitted,

Sharon M. Banks-Wilkins  
Recording Secretary