

Minutes of 24 October 2011 Senate Assembly Meeting  
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THE UNIVERSITY OF MICHIGAN  
SENATE ASSEMBLY MEETING  
24 OCTOBER 2011

**Present:** Adlerstein-Gonzales, Ahbel-Rappe, Armitage, Aronoff, Barald, Barber, Bayraktar, Borer, Carson, Christman, Crane, DiPietro, Dorsey, Folger, Giodani, Goldman, Hardin, Hirshorn, Jagadish, Jenckes, Jones, Kearfott, Koopmann, Larsen, Lehman, Lusmann, Mansfield, Mars, McCullagh, Miller, Moore, Mora, Muehlberger, Odetola, Pando-Zayas, Pipe, Poulsen, Prygoski, Rothman, Sanden, Schriber, Sharma, Shore, Soellner, Staller, Szymanski, Von Buelow, Westlake, Wolfe

**Requested Alternate, None Available:** Bielinska Booth, Davis, Hollingsworth, Millunchick Nevelt, Wong

**Alternates:** None

**Absent:** Atkins, Beck, Boxer, Brown, Friese, Gumucio, Johnson, Koopman, Nunoo-Quarcoo, Ortega, Shah, Sonnega, Sun, Thompson, Thornton, Unnikrishnan, Williams, Zemgulys

MATERIALS DISTRIBUTED

1. Agenda
2. Minutes of the 19 September 2011 Senate Assembly meeting
3. House Bill No. 4770
4. Report of the Advisory Task Force on Faculty Involvement in Health Plan Incentives

Chair Barald convened the meeting at 3:21 P.M. The agenda was approved.

CONSIDERATION OF MINUTES

The minutes of 19 September 2011 were approved.

VISIT OF VICE PRESIDENT AND GENERAL COUNSEL SCARNECCHIA

The chair introduced the guest at 3:23 P.M. She said that the office of general counsel (OGC) contains 20 attorneys, and is one of the largest OGCs at any university nationally. She reviewed a series of topics:

**1. Proposition 2 and undergraduate admissions practices**

The proposition is being reviewed *en banc* by the Sixth Circuit Court of Appeals in Cincinnati, and the case will be heard in the spring. The case will likely go to the Supreme Court eventually.

**2. Authors Guild**

This is a challenge to work being done through the Google book project. The U-M has hired outside counsel and is coordinating with other major universities.

### **3. Allegations of student misconduct**

The OGC and the division of student affairs are reviewing how allegations are handled. New policy has been developed for student-to-student charges of sexual misconduct. Major issues include standard of proof, university responsibility for investigation, and actions in case a complainant does not want to proceed.

### **4. Other qualified adult benefits**

This topic is on the Senate Assembly agenda for the current meeting. The OGC is looking into possible legal challenges in case the proposed legislation is signed into law.

### **5. Comprehensive compliance program**

This new program provides a way to report compliance concerns through the OGC website. Specific links exist for faculty members ([compliance.umich.edu](http://compliance.umich.edu)).

The GC concluded her prepared remarks at 3:45 P.M. and invited questions.

GC Scarnecchia said that the case of Proposition 2 would not likely involve affirmative action itself unless or until it is taken up by the U.S. Supreme Court. Professor Rothman asked if there were risks to autonomy in these legal cases. The GC responded that the risk was that an adverse judgment could endanger university autonomy. She added that the state constitution affords autonomy to the Board of Regents for governing the university and determining how its expenditures are made. She said that the state constitution can be changed either by constitutional convention or by voter initiatives. She said that the U-M is a corporate body organized under the state constitution, and that the state owns many of the campus buildings.

In response to questions about item 4 above, the GC said that the U-M could potentially pay for domestic partner benefits through non-public funds if the need arose.

Regarding autonomy of the U-M, GC Scarnecchia said that the Michigan Legislature has expressed its intent that the U-M report to it about a series of policy issues. Although not legally bound, the U-M could potentially face financial consequences if it declines to comply.

The guest left the meeting at 4:03 P.M.

### **CONSIDERATION OF SACUA STATEMENT ON DOMESTIC PARTNER BENEFITS**

Chair Barald called attention to a resolution proposed by SACUA (distributed item 1). Vice-chair Kearfott proposed substituting the word 'equitable' for 'equal' in the last sentence of the first paragraph. The Assembly then acted as Committee of the Whole to develop a final text for the resolution. The proposed resolution before the Assembly finally read:

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### **SENATE ASSEMBLY ACTION SA102411-1**

HB 4770 and 4771 seek to prohibit any government entity in the State, including universities and city governments, from providing public employee domestic partner benefits (medical or other fringe). We support the current practice of the University of Michigan of offering benefits to those who meet the criteria of Other Qualifying Adult. This practice is fair and offers equitable benefits for those performing the same jobs.

Recognizing the integrity in self governance of the University of Michigan, we support current policy that provides these benefits at the University of Michigan. To do otherwise would significantly hamper the University of Michigan in its efforts to recruit and to retain the best faculty and staff. In addition, the health of the University Community, including the dependent children of qualified adults, would be put in jeopardy.

Vote on the Active Motion

Number approving- 47

Number disapproving- one

Abstentions of record- none

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#### REPORT OF THE SENATE ASSEMBLY ADVISORY TASK FORCE ON FACULTY INVOLVEMENT IN HEALTH PLAN INCENTIVES

The chair yielded the floor to Professor Koopmann at 4:12 P.M. Professor Koopmann reviewed the activities of the committee and its recommendations. Dr. Mansfield asked what incentives should be used by U-M administration to encourage participation in wellness programs.

Professors Hirshorn and Lehman described some of the incentives that were identified both for administration and plan participants. Professor Rothman pointed out that the University of Minnesota provides a modest stipend to faculty who participate in fitness programs. Concern was expressed that the fitness facilities are in the domain of student affairs, and that there may be limited incentive to make the facilities more convenient for faculty and staff. Professor Borer pointed out that personal behavior is difficult to change, and that the real issues may be utilization and compliance rather than facility development.

Professor Koopmann acknowledged that he did not have any ready examples of cases where health outcomes have been improved by participation in wellness programs, but he recollected that Dr. D. Eddington had described such cases to the committee. Assembly members offered friendly amendments to the report that would specify that facility access be available to people from regional campuses and to retirees. The committee accepted these suggestions.

Assembly members provided a series of observations and suggestions, including:

- Until campus facilities are upgraded, partnerships might be developed with local health and fitness facilities.
- The campus facilities should be air conditioned.
- Cooperation among administrative units, especially Student Affairs and Human Resources, should be mandated.
- More attention should be given to the types of things that can be labeled ‘incentive.’
- Mechanisms for demonstrating participation in health and fitness programs should include the prospect that some people engage in personal training activities that are not under the supervision of a healthcare provider or any other formal structure.

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#### ACTION OF SENATE ASSEMBLY SA102411-2

Professor Giordani moved (Kearfott seconded) that the Assembly accepts the report as amended

(see Appendix) and instructs SACUA to develop an effective implementation plan after considering the discussion at the current meeting.

Vote on the Active Motion  
Number approving- 44  
Number opposing- 4  
Abstentions of record-none

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UNFINISHED BUSINESS  
There was no unfinished business.

The meeting was adjourned at 4:56 P.M.

Respectfully submitted

John T. Lehman  
Senate Secretary

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**University of Michigan Bylaws of the Board of Regents, Sec. 5.02:**

*Governing Bodies in Schools and Colleges*

In each school, college, or degree granting division of the University, including those at the University of Michigan-Dearborn and at the University of Michigan-Flint, the governing faculty shall be in charge of the affairs of the school, college, or division, except as delegated to the executive committee, if any, and except that in the School of Graduate Studies the governing board shall be the executive board, and in the Medical School shall be the executive faculty.

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**Rules of the University Senate, the Senate Assembly and the Senate Advisory Committee on University Affairs:** In all cases not covered by rules adopted by the Senate, the procedure in Robert's Rules of Order shall be followed.

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APPENDIX

**Report on Faculty Involvement in Health Plan Incentives**  
**Principles**

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1. The program should seek to maintain low-risk persons at low risk for as long as possible; reduce progression of moderate and high risk persons to higher risk levels, and lower the risk of members of moderate and high risk groups whenever possible.
2. Health plan initiatives are an institutional priority in its (long-term) investment in its human resources.
3. Benchmarking should be done locally, regionally, and nationally, with similar public as well as private institutions.
4. The plan will use inclusive language when referring to providers, employing terms such

as *provider* in place of *physician* or *doctor*.

5. Employers should make adjustments to work schedules to allow employee participation.
6. The incentive program will include: a) mechanisms to protect the privacy of participants; b) program implementation, effectiveness and impact evaluation components, and c) ongoing program modifications based on evaluation results.
7. The opportunity to engage in healthy behaviors is a shared responsibility between the employer, employees, and spouse. Therefore, it is in the best interest of the individual and university community to maximize healthy behaviors.
8. We have a responsibility for the health of members of the university community, whatever their level of health. As a university community, we accept risk sharing for all members of the community, and intend to avoid separating benefits by level of health. Exclusions from participation will be allowed, such as in cases of persons who are physically or mentally incapable of participating.
9. The program will focus on improving access and availability of mental health services to improve quality of life, reduce health care costs, and improve productivity.
10. Methods of meeting program expenses and level of expense of program should be based upon either equaling or exceeding the BEST practices of other employers.
11. The governance structure of the health plan initiative will be a shared responsibility of the university administration, the faculty, and the staff.
12. Whatever investment we make in the health promotion program will be viewed as an investment toward reduction of future health care costs. The university's investment must be sufficient to 'bend' the curve of (reduce) future health care costs.

## **Recommendations**

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1. We agree with the effort to establish a university health promotion program.
2. This program should incorporate the principles we have established.
3. Up to 25% of program operating costs may be met by employee user fees. User fees may be wage-based, and waived for the lowest-income employees. Fees should be equitable for employees regardless of personal health status.
4. Institutional resources should be committed to the university health promotion program for a period of time sufficient to establish return on investment (i.e., improving health status and bending the aggregate health cost curve).
5. The employee's investment in the health promotion program would primarily involve their engagement (i.e., time, activity); however a nominal participation fee is acceptable.
6. Performance evaluations of UM program administrators at all levels should be tied in part to their achievements in accomplishing a culture of health for their employees.
7. The program will include an evaluation component, evaluating program implementation, effectiveness and impact, making program modifications based on evaluation results. Evaluation will be limited to aggregate data, and not to the performance or outcomes of individual participants.
8. The governance of the program will include representation by university faculty and staff.
9. The design of the program should be tied to individual participation, but must not be tied to individual outcomes or health status.
10. The program should be competitive) with our peer institutions. Services should be available at campus locations for extended hours to accommodate work and class schedules, and will include both facilities for exercise as well as meditation, tai chi, yoga, etc.
11. We recommend a five year capital construction plan be designed to replace the existing intramural Buildings on Central Campus and North Campus and to augment and add to the recreational space and services available to faculty, staff and students from all three regional campuses as well as to retirees. These facilities should be equal to or better than those of our peer institutions regionally and nationally, and should be

placed at campus locations that optimize usage by our faculty, staff, and students.