The State Board of Higher Education met May 9, 2011, in Room 335 of the National Energy Center of Excellence, BSC, Bismarck, ND. The board president called the meeting to order at 8:13 a.m. CT.

Members present:
- Mr. Jon Backes, President
- Mr. Grant Shaft, Vice-President
- Ms. Kirsten Diederich
- Mr. Richie Smith
- Ms. Melissa Bonner, Student Member

Staff members present:
- Mr. William G. Goetz, Chancellor
- Ms. Debra Anderson, Public Affairs & Marketing Director
- Ms. Laura Glatt, Vice Chancellor for Administrative Affairs
- Dr. Michel Hillman, Vice Chancellor for Academic & Student Affairs
- Dr. Marsha Krotseng, Vice Chancellor for Strategic Planning/Exec. Director of CTEC
- Mr. Randall Thursby, Chief Information Officer
- Mr. Pat Seaworth, General Counsel
- Mr. Bill Eggert, Director of Internal Audit and Risk Assessment
- Ms. Erika Lorenz, Secretary

Presidents and campus dean participating:
- Mr. Dave Clark for Dr. Larry Skogen, BSC
- Dr. John Richman, NDSCS
- Dr. Robert Kelley, UND
- Dr. Steve Shirley, VCSU
- Dr. Mike Bower, LRSC
- Dr. David Fuller, MiSU
- Dr. Gary Hagen, MaSU
- Dr. Dean Bresciani, NDSU
- Dr. Ken Grosz, DCB
- Dr. Richard McCallum, DSU

Board President’s Report
President Backes thanked SBHE members, NDUS staff, and campus representatives for their work during session. Regarding the UND logo/nickname issue, his intention is to consult the Attorney General and have an update at the June SBHE meeting.

Chancellor’s Report
- Ratify Chancellor’s interim action regarding UND logo and nickname licensing
A motion by Mr. Lembke prohibiting the NCAA from selling UND merchandise, failed for lack of a second.
It was moved by Smith, seconded by Espegard, to ratify the Chancellor’s interim action authorizing UND to continue licensing UND nickname and logo merchandise until current law is changed or ruled invalid. Espegard, Smith, Diederich, Shaft, and Backes voted aye. Haugen, Lembke, and Bonner voted nay. The motion carried.

It was moved by Shaft, seconded by Smith, to direct UND to cease all transition activity related to retiring the UND logo and nickname, including but not limited to the formal transitional committees. Lembke, Smith, Diederich, Bonner, Espegard, Shaft, and Backes voted aye. Haugen voted nay. The motion carried.

Compensation Committee Report

- Introduction and final adoption of Policy 705.1 – Executive Compensation
  It was moved by Espegard, seconded by Lembke, to approve the introduction and final adoption of Policy 705.1 – Executive Compensation. Diederich, Smith, Haugen, Bonner, Lembke, Espegard, Shaft, and Backes voted aye. The motion carried.

- Introduction and final adoption of Policy 302.8 – Compensation Committee
  It was moved by Diederich, seconded by Lembke, to approve the introduction and final adoption of Policy 302.8 – Compensation Committee. Bonner, Espegard, Diederich, Haugen, Smith, Lembke, Shaft, and Backes voted aye. The motion carried.

- Approve compensation plans for campus presidents/dean, Chancellor, Vice-Chancellors, NDUS CIO, and NDUS General Counsel
  It was moved by Smith, seconded by Bonner, to approve the compensation plans for campus presidents/dean, Chancellor, Vice-Chancellors, NDUS CIO, and NDUS General Counsel. Smith, Diederich, Espegard, Lembke, Haugen, Bonner, Shaft, and Backes voted aye. The motion carried.

- Discontinuation of contracts for Senior Staff
  Mr. Espegard said the committee recommended contracts for Vice-Chancellors, NDUS CIO, and NDUS General Counsel be allowed to expire at the end of their current terms. In response to a question from Mr. Shaft regarding contract renewal, Mr. Espegard responded that it was the committee’s intention to also discontinue the use of contracts.

It was moved by Espegard, seconded by Lembke, to allow current contracts for Vice-Chancellors, NDUS CIO, NDUS General Counsel, NDUS Assistant General Counsel, and NDUS Director of Internal Audit and Risk Management to expire and employees continue employment on an at-will basis. Diederich, Haugen, Lembke, Espegard, Bonner, Smith, Shaft, and Backes voted aye. The motion carried.
BOARD BUSINESS

Approve April 6, 2011, meeting minutes

It was moved by Lembke, seconded by Diederich, to approve the April 6, 2011, meeting minutes. Haugen, Espegard, Smith, Diederich, Lembke, Bonner, Shaft, and Backes voted aye. The motion carried.

Election of officers

Mr. Espegard nominated Mr. Shaft for the office of Board President. It was moved by Espegard, seconded by Smith, to cease nominations and declare a unanimous ballot for the office of Board President. Lembke, Smith, Haugen, Diederich, Bonner, Espegard, Shaft, and Backes voted aye. The motion carried.

Mr. Lembke nominated Mr. Espegard for the office of Board Vice-President. It was moved by Lembke, seconded by Diederich, to cease nominations and declare a unanimous ballot for the office of Board Vice-President. Espegard, Smith, Haugen, Bonner, Lembke, Diederich, Shaft, and Backes voted aye. The motion carried.

Approve 2012 meeting dates

It was moved by Lembke, seconded by Bonner, to approve the 2012 SBHE meeting dates. Smith, Diederich, Espegard, Lembke, Haugen, Bonner, Shaft and Backes voted aye. The motion carried.

Board Policy Manual Revisions

Introduction and first reading

605.1 Academic Freedom and Tenure; Academic Appointments

It was moved by Lembke, seconded by Espegard, to approve the introduction and first reading of Policy 605.1 Academic Freedom and Tenure: Academic Appointments. Diederich, Lembke, Espegard, Bonner, Smith, Shaft, and Backes voted aye. Haugen voted nay. The motion carried.

Dr. Girard thanked the staff for the changes to the policy and said the final version was approved by all the CCF campuses that voted on the policy.

Consent Agendas

It was moved by Smith, seconded by Diederich, to approve the following financial and facility consent agenda items:

- Approve LRSC request to proceed with various energy improvements in the amount of $517,173 from ND Department of Commerce / DCS ARRA Energy Efficiency Improvement Program for State Facilities grant.
- Approve LRSC request to proceed with the replacement of approximately 195,000 square feet of roofs at a total cost of $866,000 from state general funds
• Approve NDSCS request to proceed with an addition to and renovation of Bisek Hall at a total cost of $10,500,000, with $10,300,000 from general funds and $200,000 from other funds. Furthermore, request authorization to seek up to $5.0 million in instructional equipment donations from industry partners in support of programs located in the facility.

• Ratify Chancellor’s interim authorization to seek legislative authorization for increased spending authority for the NDSU North Dakota Forest Service Greenhouse at the Towner State Nursery from $391,000 to $396,669 to be paid as follows: $300,000 NDFS 2009-2011 State Appropriated Capital Projects, $91,000 NDFS Income Carryover from 2007-2009 Biennium and $5,669 from Builders Insurance Claim.

• Approve NDSU North Dakota Forest Service request to transfer $20,000 of General Fund authority from operations to capital assets for the purchase of equipment at the Towner State Nursery per Section 17 of SB 2003 (2009).

• Approve NDSU request to proceed with the final phase of the AES Research Greenhouse project in the amount of $8,775,316 to be paid as follows: $6,991,650 General Fund and $1,783,666 Special Fund dollars, consisting of local, private grant and cash-in-hand donations.

• Approve NDSU request to proceed with the renovation of Stevens Hall Auditorium at an estimated cost of $380,000 to be funded from private donations ($340,000) and 2011-13 extraordinary repair funds ($40,000).

• Approve NDSU request to name the auditorium in Stevens Hall as the Gate City Bank Auditorium

• Approve NDSU request to proceed with the replacement of the South Engineering Roof & Building Envelope Improvements at a cost of $800,000 to be funded from 2009-11 deferred maintenance and 2011-13 extraordinary repairs funds.

• Approve NDSU request to proceed with the replacement of the Heating Plant Hard Car Unloader at an estimated cost of $350,000 to be funded from 2011-13 extraordinary repairs funds.

• Approve NDSU request to proceed with the replacement of the Sudro Hall Roof at an estimated cost of $360,000 to be funded from 2009-11 deferred maintenance funds.

• Approve NDSU request to proceed with an energy performance contract with Energy Services Group (ESG) at a total cost of $11,000,000 for the installation of energy efficient improvements, including up to $2.8 million in Department of Commerce ARRA grants, and further to develop and execute contracts and project financing.

• Approve VCSU request to proceed with Rhoades Science Center Renovation and Expansion project at an estimated cost of $10,500,000 to be funded $10.3M from general fund and up to $200,000 in private and/or institutional local funds.

• Approve WSC request to proceed with construction of the Williston State College science laboratory project at a total cost of $3,520,000 funded with $2,930,000 from the state general fund and $590,000 from other funds.
Espegard, Smith, Haugen, Bonner, Lembke, Diederich, Shaft, and Backes voted aye. The motion carried.

Personnel Consent Agenda

It was moved by Diederich, seconded by Espegard, to approve the following Personnel Consent Agenda items:

- Approve tenure report
- Approve tenure requests

Haugen, Espegard, Smith, Diederich, Lembke, Bonner, Shaft, and Backes voted aye. The motion carried.

Budget, Audit, and Finance Committee Recommendations

Approve State Grant program recommendations

Chancellor Goetz summarized the State Grant Program recommendations including using varying budgets for academic year 2011-12, by type of institution and increasing the state grant award from $1200 to $1,500 per student.

It was moved by Espegard, seconded by Lembke, to approve 2011-12 State Grant Program award recommendations as follows: use varying budgets for academic year 2011-12, by type of institution, and that the state grant award increase to $1,500 per student. Lembke, Smith, Haugen, Diederich, Bonner, Espegard, Shaft, and Backes voted aye. The motion carried.

It was moved by Espegard, seconded by Smith, to approve the deficit reduction plans for Barry Hall, NDSU, and the Early Childhood Development Center, MaSU. Espegard, Smith, Haugen, Bonner, Lembke, Diederich, Shaft, and Backes voted aye. The motion carried.

Mr. Espegard said the internal audit plans for NDSU and UND were both satisfactorily presented to the Budget, Audit, and Finance Committee.

Approve 2011-12 annual budget guidelines including tuition rates and fees

Ms. Glatt said the salary guidelines are consistent with what the SBHE has approved in the past. She noted that salary increases are not to be across the board increases and the institutions have the flexibility to award increases in excess of three percent. The guidelines would permit campuses to have a minimum salary increase. She said retirement increases will go up two percent, each year of the biennium, beginning January 1, 2012. Fifty percent of the increase is to be paid by the employee and fifty percent is to be paid by the employer.

In response to a question from Mr. Lembke regarding funding salary increases in excess of three percent, Ms. Glatt responded campuses are allowed to award salary increases in excess of the minimum from other general fund sources such as equity funding or from other revenue sources
such as tuition collections; however, she pointed out that the state is only expected to pick up the cost to continue for the increased share from the general fund, not other sources.

Ms. Glatt said a new category of strategic investment that addresses adult continuing education will be added. She summarized the tuition and fee increase requests by campus.

In response to a request, Chancellor Goetz said he supported the WSC mandatory fee increases as WSC is a dynamic and changing campus, facing many funding challenges. At DSU, he believed it was appropriate to recommend only one-half of the increase requested in recognition of the student support, but also taking into account that the fee increases are related to enrollment declines and as a result, services must be evaluated.

It was moved by Smith, seconded by Espegard, to approve the WSC request to increase tuition rate for international students from the resident rate of $100.68/credit hour to $136/credit hour, to phase out the "free" credits from 14th -16th credits (currently) to 15th -16th only in AY2011-12, 16th only in AY2012-13 and complete elimination in AY2013-14, increase mandatory fees totaling $153.92, including $78 technology fee increase. Smith, Diederich, Espegard, Lembke, Haugen, Bonner, Shaft, and Backes voted aye. The motion carried.

It was moved by Lembke, seconded by Diederich, to approve the DSU mandatory fee increase of $104.50, as recommended by the Chancellor. Diederich, Haugen, Lembke, Espegard, Bonner, Smith, Shaft, and Backes voted aye. The motion carried.

Ms. Glatt summarized the equity and student affordability pool allocation recommendation. In response to a question from Mr. Shaft regarding peer funding comparisons, Ms. Glatt said that a recent SBHE review dictates any campus that is funded at less than 110% of their peer funding benchmark continues to receive a minimum equity allocation.

In response to a question from President Backes regarding the legislative intent regarding “existing formulas,” Ms. Glatt said in her conversations with the Legislative Council staff she was told that the language was constructed to allow the SBHE maximum flexibility. However, she is not sure this includes discontinuing the equity allocation model (e.g. minimum allocations, etc.) and starting over.

Chancellor Goetz said the option presented to the SBHE provides consistency with the current methods used to arrive at the current funding levels. He said discussion on a new funding methodology will occur at the SBHE retreat.

It was moved by Smith, seconded by Shaft, to approve the Chancellor’s recommendations regarding equity and student affordability pool funding with the $15.2 million pool allocated on
the combined prorate share of equity and affordability funding as recommended in the Executive Budget. Haugen, Espegard, Smith, Lembke, Bonner, Shaft, and Backes voted aye. Diederich voted nay. The motion passed.

**NDSU tuition increase request**

Mr. Cam Knutson, NDSU Student Body President, presented the student perspective on NDSU’s funding situation saying students are unwilling to sacrifice the quality of education at NDSU. He presented a copy of the resolution passed by the NDSU Student Body in support of the NDSU request for an 8.8% tuition rate increase.

President Bresciani presented a brief history and overview of NDSU’s increase in enrollment and funding as well as an overview of past tuition increases, along with funding comparisons.

Mr. Shaft suggested keeping the rate increase for resident students minimal, with higher rate increases for non-resident and graduate students. In response to questions from SBHE members, President Bresciani responded an increase in student enrollment brings higher costs due to increased faculty, facility needs, and classroom space needed. He said 50% of NDSU students are out-of-state students and asking non-resident and graduate students to pay the tuition increase needed would be prohibitive. President Bresciani said the 8.8% tuition increase only provides NDSU the ability to maintain what is currently offered at NDSU.

In response to a question on reciprocity, Ms. Glatt said that under the current MN/ND reciprocity agreement students pay the higher of the two states’ resident rate, which historically has been the Minnesota rate. Thus, there cannot be a separate rate category, different from the resident rate, for Minnesota students. She said the contract is renewed annually and can be renegotiated at any time, based on the agreement of the two states. She said that Minnesota may be more than willing to renegotiate the agreement, given its budget challenges.

In response to a statement from Mr. Backes regarding the sustainability of NDSU’s tuition growth rate and potentially reducing enrollment growth, President Bresciani responded a tuition increase is a short-term response and to use tuition rates to fund sustainability is not a viable option. Mr. Espegard said that limiting enrollment would be detrimental to NDSU. SBHE members expressed concern regarding approving the request and the legislative response in the next session.

Mr. Backes asked President Bresciani if he would be able to find another option for keeping rate increases lower for resident students as opposed to non-resident students. President Bresciani indicated that while he believed he would be able to identify a way to do so, he could not recommend it to the Board.
It was moved by Diederich, seconded by Smith, to approve the 8.8% increase in the NDSU tuition rate. Smith, Haugen, Diederich, Bonner, and Backes voted aye. Lembke, Espegard, Shaft voted nay. The motion carried.

Ms. Bonner said students are concerned about the lack of funding for mental health services and that it is important for campuses to offer mental health services if at all possible.

It was moved by Diederich, seconded by Espegard, to approve all other Chancellor’s recommendations as set forth in the FY2012 annual budget guidelines. Espegard, Smith, Haugen, Bonner, Diederich, Shaft, and Backes voted aye. Lembke was absent. The motion carried.

Approve SBHE FY2012 budget
Mr. Espegard said there were revisions to the SBHE FY2012 budget including provisions for the newly created SBHE staff advisor, as necessary. The Budget, Audit, and Finance Committee recommended a FY2012 SBHE budget of $100,000. President Backes said he is working with the NDUS Office on a policy change that would provide a certain number of “flexible” days that SBHE members could use to meet with legislators and others and attend meetings without prior approval from the SBHE President.

It was moved by Espegard, seconded by Smith, to approve the SBHE FY2012 budget of $100,000. Bonner, Espegard, Diederich, Haugen, Smith, Shaft, and Backes voted aye. Lembke was absent. The motion carried.

Public Comment
Mr. Robert Vallie, former Executive Commissioner for Governmental Relations and Inter-Collegiate Affairs at NDSU, thanked the SBHE for approving the NDSU 8.8% tuition increase. Mr. Shaft said in light of the passage of HB1263, the SBHE will need to give UND some authority to deal directly with the NCAA on day-to-day issues while they are subject to NCAA sanctions.

It was moved by Espegard, seconded by Smith, to amend the ratification of the Chancellor’s interaction authorizing UND to continue licensing UND nickname and logo merchandise until current law is changed or ruled invalid, to include the authority for UND to deal with the NCAA on day-to-day issues while they are subject to NCAA sanctions. Smith, Diederich, Espegard, Bonner, Shaft, and Backes voted aye. Lembke and Haugen were absent. The motion carried.

Announcements
   Future Board Meetings
   • June 16 – MiSU
- September 15 – DSU
- September 27 – Joint Boards Meeting – Bismarck

The meeting adjourned at 11:36 a.m.

[Signatures]

Executive Secretary  
[Signature]

Date  
6/16/11