State Board of Higher Education
Executive Committee

The State Board of Higher Education Executive Committee met Thursday, January 17, 2013, at 11:00 a.m. CT, in Room 433, National Energy Center of Excellence, Bismarck State College, Bismarck, North Dakota.

Members present:
  Mr. Duaine Espegard, Chair
  Dr. Kirsten Diederich
  Mr. Grant Shaft
  Mr. Don Morton

Staff members present:
  Dr. Hamid Shirvani, Chancellor
  Ms. Laura Glatt, Vice Chancellor for Administrative Affairs
  Dr. John Haller, Interim Vice Chancellor for Academic and Student Affairs
  Mr. Randall Thursby, Chief Information Officer
  Ms. Kirsten Franzen, Chief Compliance Officer
  Ms. Claire Holloway, General Counsel
  Mr. Noah Brisbin, Special Assistant

It was moved by Shaft, seconded by Diederich, to approve the November 15, 2012, meeting minutes. Shaft, Diederich, Morton, and Espegard voted aye. The motion carried unanimously.

SBHE position on 2013-15 budget recommendation, including amendments
Chancellor Shirvani explained that the governor’s proposed budget includes $89 million in operations increases and $177 million in one-time capital funding. He noted that the $89 million increase in “discretionary” spending includes allocations earmarked for campus security and mental health initiatives.

Chairman Espegard stated that the presentation Chancellor Shirvani gave to the Senate Appropriations Committee included a good synopsis of the new budget. He added that he appreciates the included salary and benefits contribution increases, $7 million directed to increased student scholarships, and funds to increase the number of security officers on NDUS campuses. The net discretionary fund increase, Chairman Espegard stated, is $27 million, with several campuses not receiving any new discretionary funds and other campuses’ funding remaining nearly flat. He also expressed his appreciation for the record $177 million in one-time capital funding and $30 million of philanthropic money to bolster campus giving.

Mr. Shaft mentioned that it would be helpful for Board members to have a pocket reference of budget information like that contained in the presentation given to the legislature.

Chancellor Shirvani listed examples of how money allocated to security and mental health reduced the discretionary money actually available for campus use. Notably, Williston State College stands to have a $650,000 deficit in operating expenses after allocating $920,000 to
security and mental health, having received only $270,000 in discretionary/equalization appropriations.

The chancellor further explained that the University of North Dakota and its School of Medicine and Health Sciences received zero discretionary funding, and that North Dakota State University received only $5.8 million of the same. As Chancellor Shirvani is urging the research universities to increase their academic excellence by recruiting well-renowned faculty, this level of new spending will not allow UND or NDSU to accomplish much.

Chairman Espegard noted that the budget proposes $27 million in new discretionary funding, including security and mental health initiatives, and that this level of funding leads to some campus issues. Chancellor Shirvani suggested that the University System undertake further study before writing a blueprint for a budget amendment.

Board Policy Manual Revisions

310.2 Board Officers; Elections
Ms. Franzen explained to the Committee that the revision to Policy 310.2 brings the policy into compliance with North Dakota constitutional and statutory provisions.

It was moved by Diederich, seconded by Shaft, to recommend approval of revised Policy 310.2. Morton, Shaft, Diederich, and Espegard voted aye. The motion carried unanimously.

1902 Emergency Notification Systems
Chancellor Shirvani explained that Policy 1902 has been revised, pending Board approval, to require student participation in campus emergency notification systems, replacing the previous opt-in policy. Chairman Espegard asked if mandating such participation was permissible, to which Ms. Holloway replied that it is.

It was moved by Diederich, seconded by Morton, to recommend approval of revised Policy 1902. Diederich, Morton, Shaft, and Espegard voted aye. The motion carried unanimously.

Financial and Facility Requests

It was moved by Diederich, seconded by Morton, to recommend approval of the MaSU request for a resolution authorizing the issuance of Not to exceed $2,100,000 State Board of Higher Education of the State of North Dakota, Mayville State University, Facilities Revenue Refunding Bonds, Series 2013. Shaft, Diederich, Morton, and Espegard voted aye. The motion carried unanimously.

It was moved by Morton, seconded by Diederich, to recommend approval of the MiSU request to proceed with flood restoration projects of up to $2 million due to the June 2011 flood of the Souris River, funded from FEMA recovery and MiSU institutional funds, pending the outcome of the 2011-13 deficiency appropriation request. Furthermore, increase spending authority for the Beaver Lodge Housing (student housing unit) from $2,900,000 to $3,100,000 and University Apartments (8-plex faculty and staff housing) from $700,000 to $1,000,000 to be financed through a low-interest loan and repaid with auxiliary revenues. Morton, Shaft, Diederich, and Espegard voted aye. The motion carried unanimously.
It was moved by Morton, seconded by Diederich, to recommend approval of the NDSU request to proceed with the replacement of the Burgum Hall fan coil units at an estimated cost of $400,000 to be funded from Residence Life local funds, and of the NDSU request to proceed with the replacement of the roof on Ceres Hall at an estimated cost of $800,000 to be funded from 2011-2013 extraordinary repair funds. Diederich, Morton, Shaft, and Espegard voted aye. The motion carried unanimously.

It was moved by Morton, seconded by Diederich, to recommend approval of the NDSU request to proceed with the replacement of a low rise lavatories renovation project, Phase I at an estimated cost of $1,000,000 to be funded from Residence Life Repair and Replacement funds, and of the NDSU request to proceed with the Memorial Union – Food Court Renovations Project at an estimated cost of $975,000 to be funded from Dining Services local facilities operating funds. Shaft, Diederich, Morton, and Espegard voted aye. The motion carried unanimously.

The Committee turned its attention to UND’s request to enter into a ground lease between UND and UND Aerospace Foundation to enable construction of a new aerospace building; approve site of new building (Center for Aerospace Research and Innovation) to be constructed and owned by UND Aerospace Foundation; and, authorize exception to SBHE policy 902.3, section (11) permitting construction and project accounting to be managed by the Aerospace Foundation.

Chancellor Shirvani asked if the Committee wanted more information before making a decision on this request; Chairman Espegard asked that President Kelley update the Committee. President Kelley informed the Committee that $8 million of the $25 million cost of the building had already been raised, and that additional money could be borrowed. He added that additional donors are awaiting a policy amendment allowing the Foundation to own the building before contributing to the project. The Committee agreed to pull this item from the agenda for future consideration.

It was moved by Diederich, seconded by Shaft, to recommend approval of the UND request to seek legislative authorization to purchase the Research Enterprise and Commercialization building (REAC1) on the UND campus per NDCC 54-27-12, and to enter into a financing arrangement for that purpose; further authorize the Chancellor to approve the purchase terms and financing arrangement.

President Kelley explained to the Committee that UND already subsidizes the debt-ridden foundation-owned building, and that it would be economical to allow UND to purchase the building for its own use.

Chairman Espegard reiterated the importance of allowing any price and financing arrangement to be subject to Chancellor Shirvani’s discretion. He raised the point that the Board questions foundations whose finances are private because when foundations face financial difficulties, problems come to the Board in this fashion.
Chancellor Shirvani suggested to the Committee that this is a justifiable request, especially given that it allows President Kelley the opportunity to negotiate a reasonable price and requires consultation before its ultimate approval.

In response to Chairman Espegard’s inquiry as to how the purchase would be financed, President Kelly replied that a renegotiation of the purchase price and use of debt service funds would sufficiently finance the building’s purchase. Chancellor Shirvani added that because UND already pays for the building’s expenses, it is sensible to direct that payment into debt service in order to own the building.

Dr. Diederich asked about the building’s condition; President Kelley informed the committee that it opened in 2009, contains an engineering facility, and has applications for biomedical studies.

Diederich, Morton, Shaft, and Espegard voted aye. The motion carried unanimously.

**It was moved** by Morton, seconded by Shaft, to recommend approval of the UND request for increased spending and revenue bond legislative authorization from $14 to $29 million for construction of an addition and renovation to Wilkerson Hall Dining Center, to be paid from revenue bond proceeds. Shaft, Diederich, Morton, and Espegard voted aye. The motion carried unanimously.

**It was moved** by Morton, seconded by Shaft, to recommend approval of the following items:

- UND request for project spending from $950,000 to $1,500,000 for installation of fire protection systems in Walsh Hall, a residence hall facility, to be paid from residence hall funds.
- UND request to proceed with demolition of the original Winter Sports building, a.k.a. Old REA, as part of the construction of a new athletics practice facility.
- UND request to proceed with replacement of Campus Road bridge at an estimated cost of $1,600,000, with the UND cost share to be paid from 2011-13 appropriated capital assets funding and local institutional funds. UND also requests authorization according to SBHE Policy 902.3 for NDDOT to manage the project as per FHA requirements.
- WSC request to authorize an amendment of the property description as set out in the WSC Foundation Ground Lease dated April 12, 2012, which lease is to enable construction by the Foundation of apartment units on that tract of land located on the WSC campus to provide housing for WSC employees and employees of other state and local government entities and local hospital and clinic employees.
- Chancellor’s interim approval authorizing WSC to proceed with the installation of a backup generator to power part of Stevens Hall, at a cost of up to $525,000, funded from the 2011 Special Legislative Session one-time state general fund appropriation.
- NDSU request for ratification of the Chancellor’s interim approval to request an amendment to the 2013-2015 appropriations bill to include the upgrade of a portion of Research 2 (R2) for the Center for Computationally Assisted Science and Technology in the amount of $660,000 to be funded by federal grant funds; further, following legislative approval, authorization to proceed with the project.
Morton, Shaft, Diederich, and Espegard voted aye. The motion carried unanimously.

Review and consider SBHE position on 2013 legislation

Chancellor Shirvani reviewed legislation pertinent to the NDUS with the Committee. Ms. Glatt explained that HB1023 was an appropriation to MiSU for restoration costs not covered by FEMA. Chairman Espegard questioned the purpose of HB1200, which would limit the SBHE’s ability to authorize capital improvements during the three months after a legislative session.

For HB1204, which creates a $30 million matching fund for charitable giving to NDUS schools, Chairman Espegard noted that the bill contains details for qualifying for the matching funds. Thus, in his opinion, the review committee provided for in the bill seemed redundant. Dr. Diederich asked if it was common for a donation to be called a grant, as this bill does; Chancellor Shirvani replied that it is not.

Chancellor Shirvani noted, beginning with HB1289, that there are many small programs with strings attached that necessitate administrative expenses. Dr. Haller noted the same with regard to HB1303.

Mr. Shaft opined that HB1281, which as written would prohibit NDUS from assessing campuses, overlooked collaborative programs. Mr. Shaft asked Mr. Thursby for specific examples of such programs; Mr. Thursby responded that the bill would affect ConnectND, ODIN, and IVN, among other programs.

HCR3008 proposes a constitutional amendment to remove the names and locations of NDUS campuses from the North Dakota Constitution; Chancellor Shirvani asserted that the NDUS would not close any of its colleges.

Chancellor Shirvani raised the point that HCR3009, which would authorize a legislative study on the use of open textbooks, could raise academic freedom issues. Dr. Munski elaborated on the impact of rising textbook costs on college students. Mr. Shaft reasoned that open textbooks could work well on an optional basis, but that it would be unwise to mandate their use.

SB2094, proposed by the Board, would limit total mandatory fee increases to one percent of average undergraduate tuition rates, with limited exceptions.

Chancellor Shirvani, in outlining SB2186, mentioned that 3 of the 26 NDUS office employees work with scholarship administration. SB2186 was one of several bills to create new scholarship programs that would be administered by the NDUS office.

SB2222 proposes to increase the CTE scholarship amount. Chairman Espegard asked if funding to support this increase was included in the governor’s budget proposal. Chancellor Shirvani responded that while the governor did propose $7 million in increased scholarship funding, it was allocated to other programs.
Ratify Chancellor’s interim action approving introduction of statutory amendments

Chancellor Shirvani stressed the importance of having a consistent procedure for working with bills in the legislative process, which Mr. Shaft reinforced. Ms. Glatt stated that the chancellor could act on legislation between Board meetings in consultation with the Board president, to be supplemented by Board action. Mr. Morton expressed that he was comfortable with that working process.

**It was moved** by Shaft, seconded by Morton, to recommend ratification of the chancellor’s interim action approving introduction of statutory amendments. Diederich, Morton, Shaft, and Espegard voted aye. The motion carried unanimously.

The meeting adjourned at 12:28 p.m.