Wednesday, March 6, 2013

Members present:
Mr. Duaine Espegard, President  Dr. Kirsten Diederich, Vice President
Dr. Terry Hjelmstad   Mr. Don Morton
Ms. Kathleen Neset   Ms. Kari Reichert
Mr. Grant Shaft   Ms. Janice Hoffarth, Staff Senate Adviser

Staff members present:
Dr. Hamid Shirvani, Chancellor
Ms. Terry Meyer, Administrative Support Manager
Mr. Noah Brisbin, Special Assistant to the Chancellor

President Espegard called the meeting to order at 1:05 p.m. He thanked Dr. Hjelmstad and Ms. Meyer for the time they put toward the search process in Devils Lake and for the results of their work with the Presidential Search Advisory Committee. Dr. Hjelmstad described the makeup of the committee to the Board as an excellent cross-section of the Devils Lake community. The committee, Dr. Hjelmstad continued, screened 20 applicants and selected semifinalists in January, and interviewed semifinalists and selected finalists in February that the Board is interviewing today. He concluded by welcoming those that had traveled from Devils Lake to observe the finalists’ interviews.

The Board then interviewed Dr. Doug Darling until it broke at 2:05 p.m. The Board reconvened at 2:20 p.m. and interviewed Dr. Jerry Migler. After that interview, the Board broke at 3:27 p.m. At 3:37 p.m., the Board entered executive session, per N.D.C.C. § 15-10-17(1)(a), to deliberate and select the candidate to serve as president of Lake Region State College. The Board reconvened in an open meeting at 4:25 p.m.

It was moved by Hjelmstad, seconded by Shaft, to select Dr. Doug Darling as the next president of Lake Region State College. Hjelmstad, Morton, Neset, Reichert, Shaft, Diederich, and Espegard voted yes. Hull was absent. The motion carried.

The Board recessed at 4:30 p.m.

The Board met for dinner at The Toasted Frog, 124 N 4th St., Bismarck, North Dakota, beginning at 6:00 p.m. CT. The Board reviewed higher education issues arising in the legislative session, including past and forthcoming hearings and opportunities to present testimony. The Board also discussed other North Dakota higher education issues. The dinner ended at 8:30 p.m. CT.

Thursday, March 7, 2013
Members present:

Mr. Duaine Espegard, President    Dr. Kirsten Diederich, Vice President
Dr. Terry Hjelmstad             Ms. Kari Reichert
Mr. Sydney Hull                  Mr. Grant Shaft
Mr. Don Morton                  Ms. Janice Hoffarth, Staff Senate Adviser
Ms. Kathleen Neset              Dr. Douglas Munski, CCF Adviser, by phone

Staff members present:

Dr. Hamid Shirvani, Chancellor
Ms. Laura Glatt, Vice Chancellor for Administrative Affairs
Ms. Claire Holloway, General Counsel
Ms. Linda Donlin, Director of Communications and Media Relations
Mr. Noah Brisbin, Special Assistant to the Chancellor
Mr. Bill Eggert, Director of Internal Audit and Risk Assessment
Ms. Kirsten Franzen, Chief Compliance Officer

The State Board of Higher Education reconvened Thursday, March 7, 2013, at 1:00 p.m. CT, in the Bavendick Stateroom of the National Energy Center of Excellence, Bismarck State College, Bismarck, North Dakota.

Board President’s Remarks

President Espegard welcomed the Board, campus presidents, and others in attendance. He thanked the members of the Board and the NDUS staff for their work during the legislative session, and congratulated Mr. Morton, Ms. Neset, and Ms. Reichert on their recent confirmations.

Chancellor’s Report

Chancellor Shirvani expressed that he wished yield his time to allow the Board to work through its agenda more quickly.

State Board of Agricultural Research and Education Annual Report

Mr. Howe explained that SBARE is responsible for meeting North Dakota’s agricultural needs through NDSU Agriculture Research and Extension. SBARE prioritizes agricultural needs, creates funding packages, and submits those packages to lawmakers. He noted that agricultural is North Dakota’s leading industry, with an annual production of about $35 billion, compared to about $13 billion produced by oil.

SBARE, Mr. Howe continued, is an important cog in the agricultural wheel, as North Dakota leads the nation in the production of 15 different crops. SBARE formed the Global Harvest Initiative with private partners such as IBM, DuPont, and John Deere to analyze the future global demands for agricultural production. Although developing new crop varieties requires a process of 10 to 15 years, Mr. Howe stated that North Dakota is well equipped to grow, with excellent facilities and a staff with worldwide recognition. SBARE does have needs, however, including updates to obsolete laboratories, warehouses without water or electric service. Mr. Howe thanked President Bresciani, as a valued member of the board, and President Espegard and Chancellor Shirvani for allowing SBARE’s priority funding list to go forward to the legislature. He
expressed his appreciation for the governor’s funding recommendation as approved by the Senate, stating that it would strengthen agriculture in North Dakota.

Next, Dr. Grafton, the vice president of agricultural affairs at NDSU, explained that NDSU and SBARE have had a close working relationship. He gave examples of the impact of that relationship—SBARE has made 870,000 direct contacts with North Dakotan students, producers, and agribusiness people in 15 years, providing educational opportunities and economic impact for North Dakota. Dr. Grafton explained that SBARE is heavily vested in the development of crop varieties at NDSU with agribusinesses, the US Department of Agriculture, and other partners; and that SBARE has developed close relationships with gene technology companies to avail North Dakota to the best crop varieties. He added that the release of a good crop variety can lead to a $250 million to $300 million annual return and that SBARE and NDSU currently grow 42 different crop commodities and are invested in livestock research. Dr. Grafton concluded that SBARE and NDSU have fantastic research capability that attracts state-of-the-art innovation and investment, with great potential for growth.

Presentation by President Ray Nadolny, Williston State College
President Nadolny described to the board that WSC sailed through its accreditation, despite ongoing issues of employee turnover. WSC has recently won a national championship in hockey; housed the DMV and grown its $2 million operation into a $12 million operation; and trained 10,000 employees in its Train ND division. WSC has a new library, a landscaped yard, and a new café for students that was paid for by the WSC Foundation.

President Nadolny explained that WSC was requested to address the housing situation in its community, and opened 74 housing units for public employees. Despite Williston High School’s shrinking graduation classes, WSC’s entering class has doubled in size. WSC is doing more and hoping for more, President Nadolny said—goals include automation and electronics programs and a center for economic research to understand housing, retail, and oil production.

The legislature is poised to provide critical resources for WSC, President Nadolny added, as the capital allocations for a new generator and to renovate Stevens Hall would be transformative. He stated that the proposed funding model demonstrates the accountability and integrity of state leadership, but added that WSC, which Larson Allen’s audit stated to be a high-risk college in a high-risk community, is anomalous with respect to the model. Employee turnover, President Nadolny explained, is about 40 percent per year, and the college struggles to hire new employees at wages two-thirds higher than those offered 2 years ago. Security and counseling funding is also decreased for WSC in the budget’s current form. President Nadolny cited that Chancellor Shirvani is working to address this decrease in funding, and that he also proposed creating a statewide master plan that would help identify opportunities for WSC to grow. WSC has significant opportunities, President Nadolny explained, in petroleum, automation, and electronics; WSC is worth investing in to address the growing population and needs of the northwestern part of the state.

President Espegard responded that the Board supports supplementing WSC’s funding, and reinforced that one-time funding would not satisfy Williston’s needs, as ongoing expenses should be addressed with continually budgeted money. Mr. Hull agreed with the concerns about
WSC, and asked how to go about obtaining increased funding in light of the new funding model. President Espegard answered that it was the Board’s goal to explain to legislators the wage and security issues and senior staff issues at WSC, and expressed his confidence that the House will hear WSC’s request. He then thanked President Nadolny for his work. Chancellor Shirvani added that it would be appropriate for WSC to receive a special appropriation of its structural deficit. President Nadolny concluded that despite negative press surrounding the Williston area, WSC is a great counter example in that men and women are advancing their careers there.

Council of College Faculties Report
Dr. Munski expressed his appreciation for the chance to call in and present the CCF report. He reported that the CCF had tabled its statewide survey of libraries. Dr. Munski mentioned that at its last meeting, the CCF planned for the higher education showcase at the Capitol and passed bylaw changes. The CCF also discussed Senator Grindberg’s amendment to Senate Bill 2003 without reaching a decision and expressed a desire to have a protocol for similar future events. Finally, the CCF elected its officers for 2013-14.

Presentation by President Gary Hagen, Mayville State University
President Hagen described to the Board the condition of MaSU in 2006—a $1 million deficit, the highest amount of deferred maintenance in the NDUS, and minimal dorm occupancy. Since that time, MaSU has eliminated its debt (as of 2010) and built collection reserves. MaSU needs a new dormitory, President Hagen explained; implementing new programs at MaSU is a hypothetical goal at this point because there is no room to house them. Since 2008, he added, enrollment is up 30 to 75 percent (in headcount and distance enrollment, respectively), in-state enrollment has grown, and the fitness major has grown and run out of space. Deferred maintenance, which was 40 percent in 2004, is down to about 6 percent. In MaSU’s sole building project in 44 years, the campus reduced 62 percent of its deferred maintenance costs; MaSU has also introduced a new cleaner coal plant that has reduced heating costs by 75 percent.

In terms of MaSU’s academic mission, it has placed 94 to 98 percent of students in satisfactory jobs, with 80 percent of graduates in North Dakota. There are also 800 alumni teaching in North Dakota, President Hagen added. MaSU supplies teaching and service to 55 North Dakota communities and 48 states, undertaking many collaborations. Donations have doubled year-over-year, and average gifts have grown significantly, leading to a doubling of MaSU’s endowment in 2 years. MaSU receives 23 percent of its revenue from federal grants, which President Hagen suggested is a good figure for research institutions. He thanked the Board for supporting MaSU’s facilities projects, and explained that he looked forward to new directions in early education degree programs with DSU and BSC, helping near-completers finish their degrees, collaborating with LRSC in nursing, and collaborative management. President Hagen noted that the school’s strategic planning committee and customer service approach have improved campus morale to 90 percent, increased productivity, and improved community relations.

President Espegard thanked President Hagen for his report, and stated that President Hagen’s management and leadership has had excellent results for MaSU.

Approve January 7, 2013, and January 17, 2013, Meeting Minutes
It was moved by Shaft, seconded by Hull, to approve the January 7, 2013, and January 17, 2013, meeting minutes. Diederich, Hjelmstad, Hull, Morton, Neset, Reichert, Shaft, and Espegard voted yes. The motion carried unanimously.

**Introduce Lake Region State College President**

President Espegard explained the process that the Board undertook to search for LRSC’s next president. He thanked the Presidential Search Advisory Committee at LRSC for its work, and thanked Dr. Hjelmstad for chairing the committee. President Espegard announced that after interviewing two finalists, the Board selected Dr. Doug Darling to serve as LRSC’s president. He expressed the Board’s enthusiasm for President Darling’s continued leadership of LRSC and work within the NDUS.

**SBHE Positions on 2013 Legislation**

Chancellor Shirvani explained that the Board has made public its positions to almost all relevant bills. The Executive Committee, Chancellor Shirvani said, decided to oppose four concurrent resolutions that would restructure the Board and the NDUS.

Mr. Hull stated that he would like to recap the discussion for those in attendance. Chancellor Shirvani described that a bill that would limit mandatory student fee increases to 1 percent of the cost of tuition has been amended to require campus wide elections to approve exceptions to the cap. NDUS presidents unanimously opposed the campus wide elections, desiring student government input, and the Board has opposed this bill on that basis.

It was moved by Shaft, seconded by Diederich, to approve the Board positions on pending legislation recommended by the Executive Committee. Hjelmstad, Hull, Morton, Neset, Reichert, Shaft, Diederich, and Espegard voted yes. The motion carried unanimously.

**Report on Implementation of Pathways to Student Success Tuition Model**

Chancellor Shirvani reported that since the Board passed Pathways in September and delegated implementation authority to him, there have been several changes in implementation since, as Pathways is a living document. One element of Pathways is the tier-standardized tuition plan; although Chancellor Shirvani wished to implement that plan at the same time as the new admissions model, presidents have expressed concerns about the interaction of the new tuition model and the governor’s proposed funding model. After meeting with the presidents of the institution groups, Chancellor Shirvani explained, he has agreed to postpone the tuition element of Pathways until the fall of 2015. As for dual credit instruction, Chancellor Shirvani was pleased to report that 4-year and 2-year institutions have agreed on clear per-credit tuition standards.

**Financial and Facility Consent Agenda**

It was moved by Hjelmstad, seconded by Shaft, to approve the NDUS FY2012 financial statement audit report responses and the NDUS Office performance audit responses. Hull, Morton, Neset, Reichert, Shaft, Diederich, Hjelmstad, and Espegard voted yes. The motion carried unanimously.
It was moved by Diederich, seconded by Morton, to approve the TIAA-CREF retirement plan class change and revenue account for the NDUS. Morton, Neset, Reichert, Shaft, Diederich, Hjelmstad, Hull, and Espegard voted yes. The motion carried unanimously.

President Espegard noted that all the proposed facility projects are worthy. The aerospace building request is unusual, he said, in that the project was completed by the Aerospace Foundation as funded by donations, and therefore not subject to the Board’s building policy. As for MiSU’s geothermal project, President Espegard stated that the first phase is complete and is already creating tremendous fuel cost savings for the school, praising President Fuller for his shepherding of the project.

It was moved by Morton, seconded by Hull, to ratify and approve the following financial and facility items:

- Ratify the Chancellor’s interim approval authorizing UND 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.
- Ratify the Chancellor’s interim approval authorizing UND to proceed with miscellaneous renovation projects throughout the existing School of Medicine and Health Sciences (SMHS) facility at an estimated cost of $475,000, to be funded with SMHS local funds.
- Approve VCSU request authorizing the issuance of Not to exceed $3,000,000 Housing and Auxiliary Facilities Revenue Refunding Bonds, Series 2013 (Kolstoe Housing Bonds) to refinance its 2003 Bond issuance.
- Approve MiSU request for increase in geothermal project authority from $9.35 million to $10.0 million, with the increase of $650,000 funded from Department of Commerce ARRA funds.

Neset, Reichert, Shaft, Diederich, Hjelmstad, Hull, Morton, and Espegard voted yes. The motion carried unanimously.

Academic Consent Agenda
It was moved by Diederich, seconded by Shaft, to approve the following academic items:

- University of North Dakota requests
  - Institutional Organizational Change
    - From: Department of Physical Education, Exercise Science and Wellness
    - To: Department of Kinesiology and Public Health Education
  - Changes in Program Title and New Degree
    - From: Physical Education, Exercise Science and Wellness
    - To: Kinesiology and Public Health Education
  - New Degree – Bachelor of Science in Public Health Education
  - Program Approval and New Degree – Doctor of Nursing Practice
  - Program Termination – Bachelor of Arts in Classical Languages
  - Program Termination – Transitional – Master of Occupational Therapy

Reichert, Shaft, Diederich, Hjelmstad, Hull, Morton, Neset, and Espegard voted yes. The motion carried unanimously.
North Dakota Student Association Report
Mr. Woodworth stated that the NDSA had begun the process of nominating and electing next year’s officers, noting that this would be his last report to the Board as NDSA’s president. The NDSA discussed multiple pending bills, he reported; the NDSA supports House Bill 1412, which provides amnesty for minors who make alcohol-related reports, for incentivizing doing the right thing. The NDSA also discussed House Bill 1332, which extends the time a citizen needs to remain in-state to establish voting residency, and agreed to advocate that students with continued residence from the beginning of the semester should be able to vote. Mr. Woodworth explained that the NDSA further supports Senate Bill 2094, the bill regarding the cap on mandatory increases, whether the exception process requires student government action or campus wide referenda. President Espegard asked and was assured that the NDSA agrees with the Board on all aspects of the bill except for the referendum provision. Chancellor Shirvani restated that the presidents were opposed, and the time required to arrange for a student vote was a factor in their opposition.

Mr. Woodworth continued by thanking those who served on the due process task force; he elaborated that the recently drafted policy is a good step forward in explicating students’ rights and is worthy of support. In response to that draft, the NDSA withdrew its bill for a study of student due process. In other resolutions, representatives met to discuss concern with Chancellor Shirvani’s leadership, and the NDSA resolved to support Senator Grindberg’s amendment and took a vote of no confidence in the chancellor. Students who interact with Chancellor Shirvani, Mr. Woodworth reported, find his behavior to conflict with Board policy. Mr. Woodworth emphasized that the decision was not hasty, but that the NDSA weighed evidence heavily; he added that several campus student governments have supported similar resolutions. He encouraged the Board to arrange a special meeting to discuss the issue.

President Espegard thanked Mr. Woodworth for his service to the Board; Mr. Shaft remarked that there is a chance the Board will still have occasion to interact with Mr. Woodworth.

Staff Senate Report
Ms. Hoffarth gave a synopsis of the activities of staff senates throughout the state. At MiSU, the staff senate spearheaded a fundraising effort and provided President Fuller with information on the changing cost of living in Minot. UND hosted a matched fundraising event for staff development. The NDSU and UND senates raised money for scholarships for staff dependents. VCSU’s staff senate led a food drive. Ms. Hoffarth explained that staff senates are active on campus and in outreach to campus communities.

Ms. Hoffarth noted that the Staff Senate has worked with President Espegard and Dr. Riedy on the IT building to ensure that the workspace is constructed to maximize staff’s talents, and thanked President Espegard and Dr. Riedy for their receptiveness. She also noted staff concern with recent events in student senates, and expressed that staff intend to serve students. Mr. Shaft stated that it was beneficial to hear what staff senates are doing on a campus level.

Report on University System Office Personnel
Ms. Franzen reported that President Espegard asked her to look into concerns from staff members regarding the climate of the system office, and that despite some concerns are legitimate, they are relatively minor. She explained that Mr. Hull had received emails from system staff about low morale and concern for job security; Ms. Franzen spoke with employees, who were forthcoming. The employees expressed concern about ongoing change, but did not articulate specific causes for concern, Ms. Franzen reported.

Ms. Franzen noted that areas for improvement included providing better performance feedback to employees, stating that this was a training issue that she could address. Ms. Franzen explained the importance of employees knowing where they stand. The stress in the office, she continued, was a product of the legislative session and adapting to new leadership, and not something created out of ill intent. Ms. Franzen emphasized that it is crucial for NDUS employees to come to her with their concerns in order to resolve them.

Ms. Hoffarth asked if employees can come forward anonymously; Ms. Franzen replied that anonymity is difficult due to open records law, and that her special assistant attorney general appointment raised ethical obligations. She did, however, assure employees that there is no retaliation in the NDUS, and noted that details need to be brought to light to have an open and productive conversation.

Ms. Reichert asked if there was a hotline available for use; Ms. Franzen replied that the NDUS has a fraud hotline, but that she had received no reports through that hotline.

Mr. Hull opined that it would be encouraging to allow anonymity where possible to relieve tensions. Ms. Franzen explained that her goal is to make employees feel comfortable, but that it is hard to investigate completely anonymous comments.

President Espegard thanked Mr. Hull for coming forward with the reports. He stated that the Board would not tolerate less than good working relationships in the NDUS, and mentioned that he would ask for updates in the future to ensure that a good working environment exists.

President Espegard stated that the Board would appreciate having exit interviews to review going forward, and thanked Ms. Franzen for her report.

Ms. Reichert noted that the NDUS was in a dynamic environment and that people have concerns. She stated that it is unhelpful to go without communication about what is happening in the NDUS, and that it would be worth checking in with staff to see how things are going in the office. Ms. Franzen thanked Ms. Reichert for her opinion, stating that proactivity would help address issues before they become issues, and that performance management tools would effectively address these concerns.

President Espegard observed that in walking through the NDUS office and talking to staff, there were concerns about duty changes and bad feelings about the turnover; he added that employees are important and that it is essential to ensure that they work in a comfortable environment.

Report on SBHE Policies Review
President Espegard described that there has been conversation about the Board hurrying policy review. He stated that the Board has requested a review of its policies, asking Ms. Holloway to look into presidential policy in particular and report her findings. President Espegard stated that the Board should understand its responsibility, the chancellor’s responsibility, and the presidents’ responsibility, but that micromanagement would be going too far.

Ms. Holloway reported that she will look for concision, clarity, and consistency in policies, noting that periodic review of policies is useful. She noted that she spent some time with the presidents discussing policy regarding presidents’ authority and responsibility, thanking the presidents for the time they took to contribute to a thorough discussion. Ms. Holloway explained that clarifications will be part of recommended revisions of policies shared with campuses for their input. Among these are the elimination of the 30-day termination provision, which is unnecessary; assurance that 2-year college presidents can receive 12 months’ salary and benefits upon termination without cause at any point in their tenure; and clarification of 4-year college presidents’ option of 12 months’ compensation or retreat rights.

Ms. Holloway added that presidents expressed their desire to ensure that relevant policy reflects their role in shaping the vision of and planning for their institutions; presidents also registered concern with the lengths of their appointments, preferring rolling 3-year terms with the opportunity to negotiate terms open-endedly. Ms. Holloway concluded by stating that she will work to resolve definitions of certain terms and particular usages of language, look at best practices, and consult campus personnel before bringing recommendations forward in the next few months.

Ms. Hoffarth asked when implementation of these changes in presidential policy was planned; Ms. Holloway replied that the recommendations would be ready in time for the Board to act on them before presidents’ contracts came up for renewal in June. Chancellor Shirvani elaborated that there will be two sets of recommendations—clarifications and substantive recommendations. Substantive recommendations will be based on presidents’ input and best practices. President Espegard explained that the Board takes its job seriously, and wants to address the issues that come before it. He expressed his appreciation for Ms. Holloway’s work, and stated that the Board would thoroughly review its policies.

Discussion of Constituency Reports and Implementation of NDUS Initiatives
Mr. Hull stated that he had information that he needed to bring before the Board for its consideration, and requested a special Board meeting to give the Board time to digest the information, allow the NDUS to respond to allegations, and revisit the legislature’s activity. The information, Mr. Hull explained, indicates a pattern of disregard for open meetings and open records laws, particularly with respect to the Executive Committee; Mr. Hull read an email from the attorney general’s office describing committee open meeting requirements. Mr. Hull next indicated that the Board’s recent presentation and passage of policies in the same meeting was problematic, and that situations where the Board revisits policies revised within the last six months indicates a need for more consideration.

Mr. Hull explained that too little communication among the Board members has led to ineffectiveness. He stated that President Espegard does not speak for the Board, citing President
Espegard’s testimony at the legislative committee hearing related to the hearing for the IT building on the UND campus. Mr. Hull next mentioned questions from past colleagues of Chancellor Shirvani, opining that he observes an environment of misinformation and distrust—a large disconnect which needs to be fixed in order to have a unified system. Mr. Hull also noted that the NDUS has a poor relationship with the legislature.

President Espegard thanked Mr. Hull for his remarks and for bringing the information forward. He stated that he does not speak alone for the Board, but that he tries to elicit information from the rest of the Board’s members. President Espegard pledged that the Board would look at and vet every piece of information in a meeting.

Ms. Hoffarth reiterated that all the Board members are here to serve students; she apologized to Mr. Hull for the stress of the situation. She stated that it was in the Board’s best interest to listen to any concerns brought forward.

Ms. Reichert asked if there was any additional information or documentation to support the resolutions passed by students; Mr. Hull responded that the resolutions were based off the documents before the Board.

President Espegard stated that he will work with counsel, and that the Board will meet to discuss all the issues. He explained that the Board never intends to break the law, and takes open meetings and records requirements very seriously. In closing, he thanked President Skogen and BSC for their hospitality in hosting the Board. The meeting adjourned at 3:00 p.m.