The State Board of Higher Education
Executive Committee

The State Board of Higher Education Executive Committee met Thursday, March 7, 2013, at 9:30 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
   Ms. Claire Holloway, General Counsel
   Ms. Linda Donlin, Director of Communications and Media Relations
   Mr. Noah Brisbin, Special Assistant to the Chancellor
   Ms. Kirsten Franzen, Chief Compliance Officer

Approval of January 17, 2013, meeting minutes

It was moved by Shaft, seconded by Diederich, to approve the January 17, 2013, meeting minutes. Diederich, Shaft, and Espegard voted yes; Morton was absent. The motion carried.

Review of semiannual Budget Report for period ending December 31, 2012

Ms. Glatt delivered the semiannual Budget Report for the period ending December 31, 2012 to the Executive Committee. She explained that BSC, DSU, WSC, and MiSU expected negative variances of at least 2 percent in tuition revenues, whereas MaSU, NDSU, and UND expected positive variances of at least 2 percent in tuition revenues.

Ms. Glatt then explained that DSU will settle its net asset deficit of over $100,000 by discontinuing the Business Challenge program. She elaborated that other net asset deficits greater than $50,000 at MaSU would be fully eliminated by June 30, 2013.

Ms. Glatt announced that there are no other events having a significant impact on campus revenue or expenses. She did explain that oil impact in the western part of the state and its effect on housing costs have led to declines in BSC’s enrollment.

Report on University System office personnel

Ms. Franzen stated that she investigated system office morale at the request of Chairman Espegard. Mr. Hull had received 2 emails from employees with concerns about office morale and job security. Despite reports to the contrary, office morale is good. Both employees, in lengthy interviews, reiterated their job security concern, but did not specify specific issues causing those concerns. The employees expressed concern with adjustments to reporting relationships. Ms. Franzen dispelled their concerns, but notes that performance feedback to employees could be
improved. There is currently no overarching feedback system; a regular feedback model is useful. The office is dealing with the legislative session, a new Chancellor, a lot of turnover, and is understaffed. The office environment does have stress, but the atmosphere is fine overall, Ms. Franzen reported.

Chairman Espegard requested Ms. Franzen to continue gauging the office environment; he added that he would like to see an exit interview when someone leaves. As he remembers, seven employees have left since July; he suggested that if Ms. Franzen would conduct exit interviews, that would continue to inform the Board of the office’s atmosphere.

Ms. Franzen explained that, as chief compliance officer and human resources staff for the office, she would appreciate hearing of concerns relayed to other people. In the case of these emails, there was nothing more than general concern about the direction of the office.

Chairman Espegard stated that he does not take these issues casually; I would not tolerate stress beyond that which is normal for the working environment. Ms. Franzen explained that she is trying to get the word out that concerns cannot be resolved without being aired. Chairman Espegard reinforced that he would tolerate no retaliation.

Report on SBHE policies review
Ms. Holloway explained that the Chancellor and staff met with Cabinet to discuss policies, primarily Policy 305.1 regarding presidents’ authority and responsibilities. She thanked the presidents for their participation and input; the meeting was a good opportunity to weigh in on concerns arising recently. She also thanked the Board for this opportunity to share comments.

Ms. Holloway outlined policy clarifications discussed and recommended by Chancellor to the Board; she stated her belief that there is support from presidents for these revisions, as well. Policy 305.1.7(a) contains a phrase regarding 30 days’ notice for termination without cause of 4-year campus presidents that can be removed; it is unnecessary, especially in light of other pending clarifications to that policy. For Policy 305.1.7(b), regarding 2-year campus presidents’ termination, it would be advisable to clarify by stating that 12 months’ salary and benefits would be received at any time for termination without cause.

Ms. Holloway returned to Policy 305.1.7(a) to discuss “retreat rights” for 4-year campus presidents. “Retreat rights” is the option of a president to revert to tenured faculty status. It is meant as a sign of respect and honor to president for their service; and sought after in other systems, Ms. Holloway explained. As a point of clarification, 4-year campus presidents can select either retreat rights or the same termination benefits as 2-year campus presidents. Mr. Shaft asked if a president who is not tenured and who elected to use retreat rights would gain tenure by virtue of that choice; Ms. Holloway answered that the president would have to go through the tenure process.

Ms. Holloway explained that another major theme of the conversation was presidents’ desire that policy language reflects their roles in shaping their institutions. Chairman Espegard asked where confusion about that arose. Ms. Holloway stated that there is a feeling that current policy does
not adequately acknowledge presidents’ parts in shaping their institutions’ visions, and that policy language can be emended to reflect that.

Another concern raised involved the lengths of presidents’ appointments; current policy indicates that presidents would serve 1-year terms after their initial 3-year term. Presidents want longer terms, and suggested rolling 3-year terms and flexible negotiations. Chairman Espegard asked if best practices had been a part of the policymaking process; Ms. Holloway replied that the NDUS office has examined several systems to form bases of comparison. Chairman Espegard encouraged expanding the scope of research as time allows.

President Kelley stated that there was some discussion of uncertain wording, such as the beliefs and core values of the Board that presidents are required to follow. Chairman Espegard and Ms. Holloway noted that Policy 100 lists the Board’s core beliefs; Ms. Holloway added that there are other outstanding definitional questions.

Chairman Espegard directed Ms. Holloway to review and clarify SBHE policy. He opined that the scope of governance should be listed—that the Board dictates policy, that the Chancellor enforces policy, but that no policy micromanages presidents’ work on campuses. Ms. Holloway agreed that more precise policies should define parties’ roles comfortably. She stated that formal recommendations for several policy changes would be forthcoming. Chairman Espegard urged that recommendations come before the Board by the end of the fiscal year.

Mr. Shaft stated that presidents’ input will be welcomed for relevant policies, and that best practices should be consulted, but the Board will make the ultimate decision on policies. Chairman Espegard echoed that he encourages presidents’ involvement.

Review and consider SBHE position on 2013 legislation
Ms. Glatt distributed copies of the NDUS bill tracking document. HB 1289 as introduced provided a $450,000 veterans assistance appropriation to research universities; as modified, it has a reduced appropriation that is accessible to all campuses with dollar-for-dollar match; Ms. Glatt stated that continued support would be advisable, based on the legislature’s addressing the Board’s concern of applying the funding to all campuses. HB 1368 would have increased per diem rates, but has been amended to reimburse at lower increased rate; she recommended continued support while asking for the full GSA rate. Representative Carlson’s legacy fund bill, HCR 3018, has been changed by a houogh Amendment calling for an interim study of future use of the legacy fund; based on that change, Ms. Glatt recommended that the Board alter its position from support to neutral.

As for newly introduced resolutions regarding the Board, HCR3042 would eliminate the Board; HCR3044 would provide for voter review of Board action; and HCR3047 would eliminate the Board. Mr. Shaft asked what position the Board took on similar resolutions in prior sessions. Ms. Hoffarth asked if problems with accreditation might result from these overhauls. Chancellor Shirvani responded that was possible if an elected official were put in place; accreditation could be saved, however, with the establishment of 11 boards for the 11 colleges. Ms. Hoffarth expressed that the Board could oppose the resolutions based on accreditation concerns.
The Commerce appropriation bill, SB 2018, Ms. Glatt continued, was amended to allot up to $2 million for research ND venture grants program and $350,000 to contract with UGPTI for an infrastructure study; continued support is recommended. SB 2019 was amended to provide an additional $2.6 million one-time appropriation for workforce training quadrant funding and to move workforce training oversight responsibility from the Board to CTE; these changes, Ms. Glatt stated, deserve Board support.

An amendment to SB 2020 mandates that the SBARE budget request be submitted to OMB without Board modification. Chairman Espegard asked whether the Board typically reviewed SBARE’s budget proposal. Ms. Glatt replied that the Board has modified SBARE proposal in the past, to ensure equity between SBARE’s and campuses’ requests. Mr. Shaft observed that the new campus funding model would alleviate the need for that balancing.

Ms. Glatt noted that SB2032 was amended to add four accountability measures – fall-fall retention within system, average GPA, and six-year graduation rates at 2-year and 4-year campuses; she recommended continued support with suggestion for improved measures. SB 2034 was amended to exempt NDUS, which would suggest that the Board be neutral, rather than oppose it.

SB 2094 would codify a fee increase limitation of 1 percent of total tuition and fees; as amended, the bill would require a campus-wide election for exemptions. Ms. Glatt related that presidents talked about this bill and oppose it based on the election requirement; presidents noted that student governments exist and should represent students. Ms. Glatt added that campus-wide votes are not unusual, but that the amendment would mandate them. Mr. Shaft verified that campus-wide elections have been used to authorize the construction of wellness centers. Chancellor Shirvani indicated that best practices suggest student elections when considering constructing buildings with student fees. Mr. Shaft noted that he would like presidents to have the option of whether to go to their student government or to the entire campus.

As for Senate-based concurrent resolutions, Ms. Glatt noted, SCR 4025 was withdrawn in response to forthcoming policy changes addressing student concerns about student disciplinary procedure. SCR 4026 would set aside $450 million of the legacy fund for academic scholarships for in-state students. SCR 4028 would remove the names of North Dakota colleges from the Constitution and replace Board. Chairman Espegard, referring to SCR 4026, asked if the NDUS would see interest from $450 million or $450 million outright; Ms. Glatt responded that the NDUS would gain the interest on that amount.

Ms. Glatt noted that in the last legislative session, the Board opposed elimination bills. Ms. Hoffarth stated that the potential of these bills to endanger universities justifies opposing them; Mr. Shaft concurred. The committee also agreed that the Board should oppose HCR 3044, which would make Board action subject to voter referral.

**Report on implementation of Pathways to Student Success tuition model**

Chancellor Shirvani explained that the Board approved Pathways in September and delegated implementation authority to him. Since that time, negotiations have occurred, and the NDUS has adjusted the concept plan; the most recent adjustment is to the plan’s tuition element. In meeting
with the presidents, Chancellor Shirvani explained, there was general concern regarding the timing implementing tuition aspect of plan in Fall 2014, due to the governor’s new funding model, which, if fully approved, will have profound impact on tuition and other financial components on campuses.

As a result, the NDUS has agreed to postpone implementation of the tuition element of Pathways to Fall 2015 to give ample opportunity for campuses to adjust to the governor’s funding model. The admissions component, the main goal of the plan, will still apply in Fall 2014; the colleges are cooperating, collaborating, and are on board. All presidents have also agreed on subsidized and unsubsidized standard rates for dual credit to be implemented in Fall 2015.

Review and recommend for approval TIAA-CREF retirement plan class change and revenue account
Ms. Glatt explained that a change in classification of the defined contribution plan administered by TIAA-CREF occurred a couple years ago. Now, a new share class has been created that is more desirable based on plan performance expenses. Moving to this premier share class, Ms. Glatt continued, makes the NDUS likely to receive a $600,000 annual “rebate,” which must be used in support of the plan or plan participants. She asked the committee to recommend approval to change designation of the plan, and promised to return with a plan and recommendation for use of the $600,000, and to request the opening of a revenue account to house the funds.

It was moved by Morton, seconded by Diederich, to recommend approval of the TIAA-CREF retirement plan class change and revenue account. Morton, Shaft, Diederich, and Espegard voted yes. The motion carried.

Financial and Facility Requests
Chancellor Shirvani read the first request, requesting that the committee recommend ratifying - 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. Chairman Espegard observed that this is a good project and is progressing well; the building would be Aerospace-owned, which is a little unusual, but it makes good sense. Chancellor Shirvani explained that a good portion of money needed for this building has already been raised, and that the land has been leased. UND Aerospace will keep the NDUS informed on construction progress, but wants to retain control and complete building before contributing it for UND’s use. Chancellor Shirvani then read the remaining financial and facility requests.

It was moved by Diederich, seconded by Morton, to recommend ratification and approval of the following items:
- 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.
- 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.
- the 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.
- the 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.

Shaft, Diederich, Morton, and Espegard voted yes. The motion carried.

Chairman Espegard thanked Ms. Holloway and Ms. Franzen for giving reports to the committee. He stated that he will continue to ask for their input going forward. The meeting adjourned at 10:55 a.m.