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

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. Claire Holloway, General Counsel
Ms. Kirsten Franzen, Chief Compliance Officer
Ms. Linda Donlin, Director of Communications and Media Relations
Mr. Noah Brisbin, Special Assistant
Ms. Robin Putnam, Director of Financial Reporting, by phone

The State Board of Higher Education met on Thursday, May 9, 2013, at 8:30 a.m. CT, at the Gransberg Community Room in the UND Gorecki Alumni Center, 3501 University Avenue, Grand Forks, ND.

Report on University System staffing and Chancellor’s goals

It was moved by Reichert, seconded by Hull, to amend the agenda to add an item for the discussion of executive management issues. President Espegard opined that such a motion could raise issues with open meetings compliance; Ms. Reichert replied that the existing agenda items for system staffing and the chancellor’s goals were similar in nature to her requested agenda items. Ms. Holloway explained that if the Board had contemplated the item as an agenda item but not published it with the original agenda, that would be considered concealment of agenda topics in contravention to state open meeting laws. Mr. Shaft remarked that Ms. Reichert’s motion would merely reprioritize the agenda. Ms. Hoffarth and Ms. Reichert noted that there was no consensus as to whether the Board would discuss executive management issues. Ms. Reichert then amended her motion to move that the reports on an NDUS staffing plan and the chancellor’s goals be the first items of discussion. When asked by Ms. Reichert how to have items added to the agenda, Ms. Holloway responded that the Board members’ consensus dictated the agenda. Mr. Hull stated that it should be possible to amend agendas to add requested agenda items if they were not added to the agenda before the meeting. Morton, Diederich, Hjelmstad, Reichert, and Hull voted yes; Espegard, Neset, and Shaft voted no. The motion carried.
Ms. Reichert explained that issues with NDUS personnel had concerned her. She noted important leadership attributes included professional integrity, such as taking executive responsibility for outcomes and giving due credit, and trust building. Ms. Reichert stated that she observed critical gaps in leadership skill that she believed would prevent the NDUS from advancing. She perceived shortcomings in the chancellor’s fulfillment of objectives including the formation of relationships with the legislature, increasing the NDUS office’s staffing, a lack of collaboration in the development of the Board-approved Pathways plan, and a negative reaction to policy revisions implemented by the Board in the fall. Ms. Reichert observed that in retrospect, she would have sought more information before voting to approve these reforms. She noted that the recent turnover in system office staff created costs and risk, and questioned the higher education and management experience of newly hired staff.

President Espegard asked Chancellor Shirvani to address individually the open positions at the NDUS office. Chancellor Shirvani distributed a matrix of all outgoing and incoming staff during his tenure; he disagreed with Ms. Reichert’s perception of the staffing situation, and noted only three vacant positions in the system office. He described that several departed employees have cited personal reasons for their exits; that the search for a vice chancellor of academic affairs is ongoing; and that legislative action has brought university auditors into the system structure.

Chancellor Shirvani also announced two recent NDUS hires: Lisa Feldner, who will join the system as its vice chancellor of information technology to move forward the legacy of outgoing chief information officer Randall Thursby; and John Girard, a former faculty representative to the Board from Minot State University, will join the office as the associate vice chancellor of academic affairs, replacing the departing Aimee Copas.

Ms. Hoffarth expressed that she perceived the turnover as problematic, and perhaps indicative of less than ideal circumstances for employees’ departures. Chancellor Shirvani explained that the table lists the individual reasons for which employees left the NDUS; he stated that if different expectations and a new work culture precipitated employees’ departures, it would be difficult to ascertain that. Ms. Reichert stated that a part of conventional human resources wisdom is that employees leave managers, rather than companies. She lamented the loss of institutional knowledge resulting from recent departures and noted several new hires were new to higher education. Ms. Reichert suggested that existing internal succession plans should have been followed. She also noted the reactions of potential candidates for NDUS positions to their exposure to the office.

President Espegard spoke about the chief information officer position, explaining that the presumptive successor to Mr. Thursby had been offered an interim position as CIO, but had elected to take a job offered elsewhere. Chancellor Shirvani reiterated those comments, and expressed his confidence that Dr. Feldner, the present chief executive of ITD, would adapt to SITS quickly. He noted the small size of the system office compared to the large task of overseeing the entire system, and stated that all new hires were the best candidates for their present roles.

Ms. Neset explained that in business, a change in command frequently leads to turnover of personnel as a matter of standard practice. Regarding the notion of the system office working
with a skeletal staff, she recalled the Board agreeing with the sentiment that the NDUS needs more staffing.

Mr. Morton agreed with Ms. Neset’s explanation, while expressing his appreciation for Ms. Reichert raising the issue. He opined that based on prior interaction with Dr. Feldner, she is a strong hire for the system. Mr. Morton noted that legislators began calling for change within six months of Chancellor Shirvani assuming his role; he stated that he looked forward to the evaluation process as a way to analyze the present situation. He urged other Board members not to mistake the Board’s deliberate pace in addressing concerns for an unawareness of present issues, while encouraging deliberation in future evaluations and searches. Regarding the evaluation, Mr. Morton recommended that the Board seek a 360-degree review and examine best practices.

In response to Mr. Morton’s question about an upcoming Board meeting, President Espegard explained that the meeting would provide the Board an opportunity to act on tuition rate guidelines, to participate in open meetings training, and to elect Board officers. Ms. Reichert stated that she was unaware of any additional Board meetings in May.

Ms. Reichert also questioned the postponement of a scheduled meeting of the performance evaluation committee. Ms. Holloway explained that she would recommend that the Board discontinue its committee structure after consultation with the attorney general’s office about open meetings compliance, and that the meeting had been set aside for that reason. Ms. Reichert responded that she felt the Board should organize itself to follow open meetings laws once they were made aware of them, but questioned that committees should be discontinued on that basis. President Espegard stated that the entire Board will participate in the chancellor’s evaluation, and noted that it would be a topic of the June Board retreat.

President Espegard noted that he agreed that system office turnover was a worthy topic of discussion. He explained that some turnover predated Chancellor Shirvani’s arrival; that changes within the academic affairs staff were not atypical for new chancellor to bring about; and that other departing employees took new employment in more desirable roles or locations. President Espegard expressed that in other positions of turnover, the NDUS has hired qualified replacements. In conclusion, he did not see the turnover to be excessive, and looked forward to reports of exit interviews to point to any potential issues.

Ms. Reichert stated that she could not ignore the turnover rate, and expressed that turnover is costly for a business. She noted her respect for the credentials of newly hired employees, but noted a learning curve for their new positions, particularly with respect to open meeting laws. Mr. Hull acknowledged the controversy surrounding North Dakota higher education and expressed the opinion that the Board has acted as if there were no problems. He encouraged serious discussion of issues facing the Board.

**It was moved** by Diederich, seconded by Morton, to have the Board include a 360-degree review as part of its evaluation of the chancellor. Mr. Hull encouraged setting a timeline for the evaluation so that results would be ready for the June 20 Board meeting. Ms. Reichert noted that the Board’s performance evaluation policy contained no criteria before September. In thinking
about a performance evaluation, Ms. Reichert explained, she would examine the competencies, skills, and methods by which someone achieves goals, rather than merely asking whether those goals were achieved. She suggested including a 360-degree review in the evaluation process to incorporate feedback that Board members have already received from state agencies and presidents, among others. Ms. Reichert concluded that she has sensed alienation from the presidents, which troubles her. Mr. Morton added that best practices for a 360-degree review include involving third parties and protecting anonymity. Mr. Shaft expressed a desire for the motion to be amended to describe the review process in more detail. Dr. Diederich explained that she had a working copy of a document about conducting a 360-degree review that detailed a mutual selection process of legislators and included all presidents and NDUS executive staff. President Espegard suggested working through the protocol at a later time.

**It was moved** by Espegard, seconded by Morton, to call the question regarding the inclusion of a 360-degree review in the chancellor’s evaluation. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

For the motion to include a 360-degree review as part of the Board’s evaluation of the chancellor, Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

Mr. Shaft commented on the procedure of Board meetings. He explained that as a part-time board, the Board has struggled to use its members’ times efficiently. At last year’s Board retreat, when Mr. Shaft was the Board president, he had hoped to limit the number of meetings the Board would hold in order to retain and recruit Board members. After a successful legislative session, he continued, the upcoming Board retreat will allow the Board to address issues for which the Board was pressed for time during the session. For example, at last year’s retreat, Mr. Shaft noted, the Board took part in team-building exercises, the development of a long-term strategic plan, and resolved to restructure the communication hierarchy to preserve the time of the Board’s members. As the retreat affords the opportunity to discuss in depth the issues facing the Board, Mr. Shaft explained that he looked forward to June’s retreat.

Ms. Hoffarth sought to clarify the hiring process for the CIO position, and asked the Board to consider asking the chancellor not to hire staff without engaging in a formal process. Chancellor Shirvani explained that he and Mr. Thursby extensively interviewed Dr. Feldner. In situations where exceptional candidates are interested in a position, he continued, Board policy grants the chancellor that latitude to hire without a formal search. Chancellor Shirvani concluded that he would oblige the Board’s wishes with regard to future searches.

The Board recessed at 9:55 a.m., and reconvened at 10:10 a.m.

**Presentation of FY12 campus financial review report**

President Espegard asked Ms. Putnam to present the fiscal year 2012 financial review report. Ms. Putnam explained that the report allows for a brief presentation of financial analyses for each NDUS institution. In summary, she stated, the institutions are well managed, and most are financially stable, as compared to industry standards. Ms. Putnam noted that North Dakota ranked 11th nationally in appropriations per FTE student in fiscal year 2012 after having ranked...
40th in fiscal year 2009. In that time, North Dakota’s appropriations have increased 26.7 percent against a 15 percent decrease nationally. North Dakota also ranks 10th in total educational revenue per FTE student after having ranked 20th three years prior.

President Espegard noted that the financial ratios are useful information to consider in setting tuition guidelines for the upcoming year. He requested his fellow Board members to look at campuses’ situations and do best by students. President Espegard then thanked Ms. Putnam for her report.

Presidents’ updates on progress in implementation of Pathways to Student Success
President Espegard explained that Chancellor Shirvani had written presidents to ask for reports on their institutions’ implementation of Pathways. Dr. Diederich then asked the presidents to present those reports.

President Kelley explained that UND was prepared to admit its 2014 class based on the Pathways admissions index and was working to adjust its tuition to the Pathways model. He asserted that UND will make the admissions index work, accommodating any effect on enrollment.

President Bresciani described to the Board that NDSU had implemented its student success tuition model ahead of the Pathways tuition plan, thanking the Board for its support of the tuition model. The model has phased in the collapsing of tuition and fees and differential tuition rates. President Bresciani thanked Chancellor Shirvani for his support and encouragement, particularly with respect to differential tuition. He expressed hope that NDSU would serve as the test case for other NDUS institutions. NDSU is also in the final stages of preparing for the new admissions model, including the development of processes for applicants who do not gain automatic admission. President Bresciani concluded by noting that he did not anticipate problems meeting the implementation schedule of Pathways in a timely manner.

Ms. Wanda Mayer, provost and vice president of instructional services at WSC, explained that Pathways has prompted a combination of academic services for further efficiency. WSC is gathering data to improve retention, implementing a summer bridge program to join other campuses, and working with the other two-year colleges on varied aspects of implementation.

President Hagen stated that all implementation goals for fall 2013 have been completed at MaSU.

President Coston explained that admissions criteria have been implemented at DSU. Regarding the quality aspect of Pathways, DSU is collaborating with a regional education group to improve high school preparation. DSU has also decreased its tuition waivers by two-thirds. President Coston explained that turnover in 26 of 45 leadership positions since 2012 has presented some challenge as DSU works through its previous issues. DSU has undertaken a student degree audit and has sought to restore institutional integrity of its special international programs. He added that DSU has engaged with a national organization to review transcripts and work through procedure to ensure proper action; DSU has presented to the organization’s meetings, and has been lauded for its effort in emerging from their previous circumstances. Regarding DSU’s
placement on notice by the Higher Learning Commission, President Coston stated that DSU has worked diligently to resolve all issues raised. In summary, DSU is hard at work and making progress to live its mission and serve its region.

President Richman stated that NDSCS has blended tuition rates ready for fall 2014, and is awaiting approval to implement them. In terms of remedial coursework, NDSCS already offers courses for NDSU, so NDSCS should easily adapt to Pathways’s initiatives on that front.

President Fuller explained that MiSU had set high admissions standards, noting that MiSU had good retention and graduation rates before the 2011 flood. MiSU has responded to the directives of Pathways, and is working on developing a process of non-automatic admissions, a concern of President Fuller’s in light of the pending admissions standards. Chancellor Shirvani suggested discussing non-automatic admissions at future Cabinet meetings, mentioning that admission of students with admissions index scores below a certain level could be based on his support of presidents’ recommendations. President Fuller continued, explaining that there will be an expansion of aid to need-based and adult learners. He stated that dual-credit courses have uniform standards and a common tuition level across the system. President Fuller noted MiSU has been allowed to grandfather its tuition plan as it works toward the uniform tuition plan, and that it has implemented a plan to limit tuition waivers. For the per-credit tuition model, MiSU has proposed a figure and submitted it for review.

President Espegard noted that the Board is aware of MiSU’s predicament with the Minot flood, and has taken measures to support MiSU, including approving the tuition plan grandfathering and testifying for special appropriations for MiSU. President Fuller explained a desire for more moral support and open communication to fulfill the NDUS and the Board’s responsibility of ensuring MiSU’s thriving. President Espegard commended President Fuller for his work and reiterated the Board’s support of MiSU.

Dean Grosz stated that in fall 2013, DCB will offer developmental coursework at VCSU, and is working to do the same at MiSU. DCB is hiring to supplement its staffs at those locations, and is working with VCSU and MiSU to enroll underprepared students on their campuses in bridge programs, as will continue under Pathways and to advise those students proscriptively.

President Shirley explained that vice presidents of finance have worked on a common per-credit tuition rate for the bachelor’s-level institutions, and have reviewed fees and rolled a substantial proportion of course-specific fees into tuition. VCSU has prioritized retention, having begun implementing an intrusive retention advising program.

President Darling explained that LRSC has worked with the other two-year institutions to develop a common tuition model. LRSC will be able to roll course fees into tuition with the possible exception of 1 or 2 high-cost programs. President Darling noted that LRSC is already following new dual-credit standards and is ready to assist UND and MaSU with the delivery of developmental courses. LRSC is also working on rolling its launch program into the Pathways model.
President Skogen stated that BSC has engaged DSU regarding remedial education. BSC is ready to move forward with the tuition and fees initiatives of Pathways, despite the complication of the impact of rolled-in fees on tuition. BSC is standardizing its on-campus and online fees, in consultation with NDSCS. As for quality and alignment of education, President Skogen explained that BSC is working with local high schools, holding faculty meetings, and working with the superintendent of public instruction on aligning math curricula.

Chancellor Shirvani expressed his satisfaction with the implementation of Pathways and his appreciation of the institutional presidents’ cooperation and support. The NDUS has been solving aspect issues as they have arisen since September, he continued, such as delaying implementation of the tuition element to fall 2015 to see the impact of the governor’s funding model and make adjustments. Chancellor Shirvani noted that he was willing to make compromises moving forward.

Ms. Hoffarth asked about the enrollment impact of the admissions model and what the plan would be for institutions whose finances would be impacted by it. Chancellor Shirvani replied that the NDUS asked campuses to simulate the enrollment effects of varying admissions scores in order to try to keep enrollment close to the status quo. The purpose of the admissions index, he continued, is to increase standards as students become better prepared for college in their K-12 schooling. Chancellor Shirvani noted that institutions selected their tiers’ admissions scores, but stated that the NDUS will watch campus finances carefully as admissions reports come in for fall 2014. If any financial impact is severe, he stated that the NDUS would expand the range of discretionarily reviewed application scores to minimize that impact.

President Espegard explained that institutions set their admissions indexes on the basis that enrollment would not be adversely affected in 2014, and stated his hope that the consensus is that it would not affect universities at the outset of implementation. Chancellor Shirvani stated that Pathways is important with respect to the broader goals of increasing graduation rates, reducing student debt, increasing retention rates by matching students and institutions appropriately based on preparation, and reducing remediation rates.

North Dakota Student Association Report
Ms. Jennifer Vetter, NDSA president, explained that the NDSA had finalized election results, and announced the new NDSA officers to the Board. The student Board member process has produced three finalists for the governor’s review. The NDSA recently presented awards to Senator Tim Flakoll and Mr. Robert Vallie for their advocacy. Ms. Vetter explained that the NDSA passed a resolution advocating for 0 percent tuition increases at two-year institutions and 2.5 percent at four-year institutions, and exhorted the Board to keep tuition and fees as low as possible for students.

Council of College Faculties Report
Dr. Munski acknowledged and introduced the CCF members present at the meeting. He explained that Chancellor Shirvani and Dr. Haller presented at the CCF’s April meeting, and voiced his hope to continue increased face-to-face contact with NDUS staff, such as Chancellor Shirvani and Dr. Haller’s attendance at CCF’s breakfast meeting earlier in the day. Dr. Munski stated that the MiSU CCF delegation had presented a resolution for other institutions’ councils to
review; five faculty senates had voted not to support the resolution, and the CCF has planned to meet over lunch to discuss it. He concluded by stating that the CCF is planning to schedule face-to-face meetings with the chancellor, vice chancellor of academic affairs, and board members for 2013-14.

Staff Senate Report
Ms. Hoffarth described that at the most recent Staff Senate meeting, it discussed working with SITS to bring its employees into the network of staff senates. She stated that Kristy Swartz is new state Staff Senate president. Ms. Hoffarth described campus-level staff accomplishments, including scholarship funding, report preparations, community service, and years-of-service events.

Discussion on lifelong impact of students’ college achievement
Dr. Diederich explained that she had received a letter from a concerned parent asking why grade point averages follow students from early college misadventures. She asked if the Board could do anything to allow students the opportunity to have a fresh start. Chancellor Shirvani stated that he had seen the letter and heard similar concern from legislators. He suggested that this was a topic to raise with presidents in the Cabinet, noting that some out-of-state institutions have policies that allow students to wipe transcripts clean. If NDUS institutions were to entertain that idea, Chancellor Shirvani concluded, a policy could be developed to that effect.

Public Comment
Mr. Rodney Howe of SBARE explained that he had written an email to the Board and Chancellor regarding concern about the SBARE budget inasmuch as it involves combining positions in a way that may conflict with the North Dakota Century Code, due to problems separating federal funding sources. He urged that the budget should maintain separate campus and research budgets, and that a consolidation recommendation would not be workable. Mr. Thursby replied that a resolution is in the works that will ensure compliance and achieve the maximum possible efficiency in this instance. Chancellor Shirvani assured the Board and Mr. Howe that there is no cause for concern, as the data inconsistencies report does not require action, especially any action that would create new problems. President Bresciani noted that the problem for SBARE is unique given the role that the Century Code plays, and explained that there is a software solution to ameliorate the issue.

Mr. Robert Lauf, the NDSU student body president, explained that students have continued concern about the negative connotation of higher education in the legislature, recommending striving toward a positive, student-centered focus. He stated that the Board has not been proactive in combating issues, and that as a result, the public impression is of controversy rather than accomplishments. Mr. Lauf cited a lack of connection between students and the Board, which, he asserted, has made it difficult for students to advocate before legislature in light of the Board’s controversy. As needed change within the system occurs, he concluded, students should contribute, as customers of the system.

Mr. Robert Vallie explained that he observed a rapid change in Board’s character over his term as student member. He said that in a period of change, the Board’s proposals have caused problems, with its communications policy having been seen as isolationism and acting above the
fray. He concluded by noting that he was considering whether Board should continue after the fall of 2014, and demanded that the Board commit to turning itself around and restoring communication with campuses in that timeframe.

Mr. Nick Creamer, UND student body president, thanked Chancellor Shirvani and President Espegard for their reception of him in Bismarck. He stated that he expects consistency in Board communication. Speaking on tuition, Mr. Creamer distributed a UND student senate resolution asking for a tuition freeze, noting that many legislators expected no tuition increases in light of a generous budget. He illustrated the effects of tuition increases on UND students, and restated his support for efforts to keep increases as close to zero as possible, while also encouraging examinations for cost savings.

Mr. Shane Gerbert expressed his distress in seeing miscommunication and misinformation affecting the Board. Noting the attorney general’s opinion on the Board’s violation of open meetings laws, he exhorted the Board not to squander its opportunity to restore itself in the public eye, for the sake of the university system.

Ms. Reichert noted that 4 of the 5 public commenters are students, and asked them about their communication with the chancellor. Mr. Creamer stated that he is disheartened not to have been contacted by the Board. Students feel there is a deep-rooted communication problem, he added. Ms. Vetter noted that the NDSA has not had further discussion on university leadership since its February vote of no confidence, also acknowledging Ms. Reichert’s attendance at the March NDSA meeting.

Ms. Reichert asked if students have provided the chancellor feedback that has not been heard. Ms. Vetter replied that Chancellor Shirvani recently met with the new NDSA leadership, and that the chancellor and leadership planned to continue meeting in future months. She did note that with the exception of Ms. Reichert, no Board member has reached out to the NDSA. President Espegard stated that he would accept any invitation to attend an NDSA meeting.

The Board recessed for lunch at 11:58 a.m., reconvening at 1:00 p.m.

Approve March 7, March 14, March 21, and April 26, 2013, meeting minutes

It was moved by Shaft, seconded by Diederich, to approve the March 7, March 14, March 21, and April 26, 2013, meeting minutes of the Board. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

Approve 2013-14 annual budget guidelines, including tuition and fee rates

Ms. Glatt presented the budget setting guidelines for 2013-14, including minimum average salary increases of four percent. President Espegard asked if institutions such as WSC could raise salaries by more than four percent, to which Ms. Glatt responded that if campuses find other funds that they are able to reallocate permanently to salary increases, they may do so. Ms. Glatt continued, noting that one percent employer and employee retirement contribution increases are scheduled for January 1, 2014. She stated that strategic investments are to be aligned with Pathways and that carryover funds will be allowed to continue.
Ms. Glatt then described the presented options for proposed tuition rate increases. President Espegard asked Ms. Glatt to distinguish equalization payments from inflation among the tuition options. He explained that it is a tough situation for the Board when the legislature passes a budget that requires the Board to raise tuition to fund fully the institutions. Ms. Glatt added that proposed tuition rate increase caps in the governor’s funding model bill were removed after the NDUS was able to assure that rate increases would be minimal or reasonable.

Ms. Hoffarth noted that the proposed tuition rate increase caps were within one percentage point of the rate guidelines outlined in Option 1 of the Board’s materials. Dr. Diederich asked if Option 1 would cover inflationary increases and place institutions in equal standing. Ms. Glatt replied that the funding model would make it difficult to standardize rates by tier in future years. Ms. Hoffarth suggested that the Board authorize the limits outlined in Option 1 while observing that presidents may not implement the full extent of the authorized increase in order to instill confidence in their work to the legislature.

President Espegard and Ms. Glatt explained that the Board has given institutions varying degrees of tuition-setting flexibility over time, and confirmed that some presidents have indicated that they may authorize tuition rate increases less than the full amounts indicated in Option 1.

Ms. Neset asked if Option 1 would equalize institutions within tiers; Ms. Glatt responded that Option 1 would fully fund inflation, which is not the same as equalization. Option 1, she continued, would obviate the need for equalization payments to fund inflationary increases. President Espegard suggested that equalization payments should not be used to cover inflationary costs. Mr. Shaft asked, and Ms. Glatt clarified, that professional schools were also subject to these tuition guidelines. Ms. Glatt noted that other options standardized rate increases within each institutional tier, while leaving inflation funding shortfalls. Dr. Diederich expressed discomfort at the prospect of using equalization funding for inflationary costs.

President Espegard explained that it would be too forceful of the Board to set a mandatory rate increase. Chancellor Shirvani reminded the Board of students’ requests for low-to-zero tuition rate increases during public comment and of the legislature’s strong message to keep tuition as low as possible given its increased appropriation to the NDUS. Dr. Diederich noted that the legislature did not fully fund the state share of college costs. President Espegard added that legislators would still expect students to pay their full share.

Ms. Hoffarth stated that tuition increases would be worthwhile to retain institution employees and cope with rising costs. Ms. Glatt noted that it is worth keeping college costs affordable, and that North Dakota institutions have been able to forgo tuition increases for four years, but that the legislature did not provide an affordability appropriation as requested by the Board in the just-ended session.

Mr. Shaft explained, for the benefit of new Board members, that setting tuition rate guidelines after a generous legislative session presents the Board with a lose-lose situation. President Espegard noted that it would be great to have no increase, but Ms. Neset stated that institutions would pay for that generosity. Dr. Diederich explained that it would be important to get out the story that tuition increases are needed despite the appropriations level; she also noted the relative
costs of North Dakota two-year colleges were high, and the costs of research institutions low, compared to similar schools across the nation. Chancellor Shirvani described that he worked behind the scenes with the conference committee for the appropriations bill to try to have inflationary costs fully funded. President Espegard suggested that the presidents express their opinions about tuition increases.

President Richman stated that the new funding model that the Board, NDUS, and presidents testified in support of accounts for the unique and valued characteristics of each campus, while assuming a shared revenue stream from the state and students. To balance their budgets, he continued, each campus needs to apply its own tuition rate to balance the state share. President Richman explained that Option 1 caps would allow for the principles of the new model to move forward, for campus flexibility and shared ownership in the tuition-setting process, and for keeping tuition affordable. Ms. Hoffarth asked if NDSCS had compared its needs to the proposed increase cap, to which President Richman responded that NDSCS has determined it would increase tuition at that level. Ms. Reichert asked what would be done with equalization proceeds; President Richman suggested that those would be shared across the tier.

President Kelley explained that UND was the metric against which other institutions were compared in devising the funding model. He said it would be helpful to UND to give it flexibility up to the Option 1 cap, while keeping in mind that affordability is important. President Kelley warned that a zero increase would create a $13 million shortfall per annum at UND. Ms. Hoffarth confirmed that Option 1 would work with UND SMHS increases.

President Bresciani thanked the NDSU students that came forward during public comment. He lauded the new funding formula as objective and well-thought funding formula. President Bresciani asked for the Option 1 caps as the last piece of the puzzle to solve funding inequity.

President Skogen stated that BSC agrees with its fellow institutions. He explained that BSC probably will not go up to the Option 1 cap, but would appreciate the option to do so.

President Espegard then asked students to come forward to speak of the realities of funding model or acknowledge their understanding of the tuition question. Mr. Creamer observed that public bodies seem to be passing responsibility down, from the legislative conference committee, to the Board, and finally to campuses. He reiterated his desire for minimal increases, stating a trust that UND leadership would stay below a 4.9 percent increase, while expressing fear of an 8 percent increase without the imposition of any limitation. Mr. Lauf also expressed a wish for tuition as low as possible, while also stating that he could explain the equity basis for tuition increases to the NDSU student body, understanding that the NDSA’s proposed 2.5 percent increase can change, given the circumstances of the budget.

President Fuller also expressed his support for the tuition cap levels contained in Option 1. President Espegard then asked Chancellor Shirvani for his opinion.

Chancellor Shirvani recognized the presidents’ positions and stated his intent to respond to the statements of the legislature and students. He explained that a tier-standardized increase such as Option 3, with allowances made for UND and NDSU, would leave no institution with an equity
shortfall of $1 million or more. That approach, Chancellor Shirvani concluded, would show a
response to student concerns and legislative concerns while also minimizing shortfalls.

Ms. Hoffarth wondered if Option 3 would eliminate needed increases at NDUS institutions. Dr.
Diederich stated that she would rather base rate increases on institution-specific finances, rather
than on tier standardization. President Richman explained that the rate increase limitation
imposed by Option 3 would cost NDSCS 2.5 employees or 1 academic program. Mr. Hull stated
that it would be unfair to schools such as WSC if the Board supported the funding model but did
not follow through with Option 1’s rate increases. Ms. Hoffarth asked about the potential impact
of a 6.6 percent increase at WSC; Ms. Meyer replied that WSC would not raise tuition to that
extent, and would cut costs as needed.

President Espegard stated his belief in the funding model and suggested that presidents should
have flexibility for their institutions, citing President Richman’s explanation as helpful. Mr.
Morton expressed his support for Option 1; Ms. Reichert also suggested that Option 1 was the
best option across the board.

Ms. Glatt next noted two unique requests at NDSU. NDSU’s nursing program has a differential
tuition rate, for which there is a proposal for a different rate increase to increase the program’s
class size from 64 students per year to 48 to 64 students per semester. The rate increase would
equalize nursing program costs at UND and NDSU. The second proposal, Ms. Glatt continued,
would create a separate differential for the business program. President Espegard asked if the
total tuition increase for business students would be close to ten percent. Ms. Glatt answered that
the proposal is a response to accreditors’ concern about the business college’s class size. The
differential rate would allow the college to add staffing and seats, and would bring NDSU close
to parity with UND’s cost for business programs.

Ms. Glatt then reviewed other unique rate requests. DSU’s nursing program fee would increase
$300 to $600 per year while eliminating discrete fees students pay for nursing board examination
and review. Proposed mandatory fee increases of greater than one percent of tuition costs are
subject to legislation requiring Board and student body approval, Ms. Glatt explained. There are
two institutions with such proposals; first, LRSC has proposed a total fee increase of $60 per
year, mainly increasing the student activity fee to fund volleyball, baseball, softball, and golf
teams. A student election supported that fee increase. At NDSU, Ms. Glatt continued, proposed
fee increases include the library fee doubling from about $40 to about $80 per year, and an
increase in the wellness center fee from $188 to $247 per year to finance the construction of an
aquatic center as the first part of a two-phase increase. Neither the Board nor the legislature has
authorized that project, but NDSU wants to implement the fee to accrue advance revenue.

President Espegard asked if it was unusual to charge students in advance of a construction
project; Chancellor Shirvani confirmed that it was. Ms. Glatt noted that an NDSU student vote
passed the fee increase with about 60 percent of voters in approval. Ms. Hoffarth asked if UND
had collected fees in advance of building its wellness center; Ms. Alice Brekke did not recall, but
President Fuller suggested that UND had done so. Mr. Hull wondered if NDSU had collected
fees before renovating its wellness center and student union, but Mr. Bruce Bollinger was unable
to confirm that.
Ms. Glatt continued by directing the Board to figures showing cost-of-attendance increases for on-campus undergraduates at NDUS institutions, excluding potential tuition increases. She also noted that the guidelines would transfer $3.67 million in inflation funding to UND SMHS, per UND and UND SMHS’s agreement. Finally, Ms. Glatt pointed to guidelines on page 3 of her memorandum, suggesting that the Board move to approve all bulleted items after deciding its tuition increase guideline levels.

Dr. Diederich noted her concern that first-year students would pay an extra fee for perhaps a single business course. Dr. Tim Peterson, the associate dean of the college of business at NDSU, explained that the fee would only begin at the start of a student’s junior year.

The Board recessed at 2:37 p.m., reconvening at 2:52 p.m.

President Espegard suggested that equity funding should not have to provide for inflationary costs, and noted that Option 1 holds institutions even with proper funding. He conceded that tuition increases would not be popular, but stressed that tuition is meant to provide raises for institution employees and continue program offerings.

It was moved by Hjelmstad, seconded by Morton, to approve the tuition rate guidelines set forth by Option 1 in the annual budget guidelines report. Espegard, Neset, Morton, Diederich, Hjelmstad, Reichert, and Hull voted yes; Shaft voted no. The motion carried.

It was moved by Diederich, seconded by Hjelmstad, to approve the recommended motions set forth in the annual budget guidelines report. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

President Espegard appreciated the genuine discussion the Board held to come to its decision, and praised the results of their conversation. Mr. Morton expressed his support of campuses’ flexibility in deciding their tuition rates, and appreciated the student input. Ms. Reichert requested that the Board be informed of final decision on tuition rate increases.

Approve State Grant Advisory Board recommendations for AY2013

Ms. Glatt explained that the state appropriates money to the NDUS for need-based financial aid programs, with a statutory advisory board providing guidance on the program’s administration. For 2013-14, there are three recommended changes: to increase the budgeted cost of education; to increase the award amount from $1500 to $1648, as the governor recommended and the legislature appropriated additional funding at that level; and to introduce partial awards for part-time students. Ms. Hoffarth asked, and Ms. Glatt confirmed, that the modifications would cover current NDUS students.

It was moved by Diederich, seconded by Morton, to approve the State Grand Advisory Board recommendations for 2013-14. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

Report on timeline for resolving inconsistencies in data and business practices
Mr. Thursby explained that a data inconsistencies study began two years ago. Last October, he continued, a draft report was completed to define why attention to these inconsistencies is important, to define the type of resolution for each, and to recommend how to resolve each issue while estimating the effort required. Since then, SITS has refined the analysis and approved estimated impacts in a separate document. Mr. Thursby stated that at the April Cabinet meeting, he agreed that he would work with personnel to address the issues that can be resolved with the least effort and the most positive systemwide effect. After gathering feedback, he said, the presidents will prioritize projects and establish a timeframe for resolution.

With respect to the NDSU agriculture issue, Mr. Thursby stated, he has worked with Ken Grafton to develop a solution. President Espegard confirmed that Mr. Thursby was referring to SBARE’s issue with positions having multiple funding sources and North Dakota Century Code requirements.

Approve extension of MiSU tuition grandfathering plan
Chancellor Shirvani reminded the Board that MiSU requested and received four years of tuition grandfathering before transitioning to the Pathways model. After subsequent discussions about the implementation of the tuition element of Pathways, MiSU has asked for a one-year extension of their grandfathering plan. Chancellor Shirvani stated that he did not recommend extending the tuition grandfathering plan for a fifth year.

President Fuller explained that the original grandfathering agreement was based on MiSU’s Grow ND plan with a flat-rate tuition model, as students came to MiSU with the understanding that they would have flat-rate tuition during their four years in college. He asked the Board for an extension so that students can come to MiSU in fall 2015 with the understanding that they get flat-rate tuition; without it, he noted, the out-of-state tuition rate would revert to 1.75 times the in-state rate.

Chancellor Shirvani noted that students have four years of flat-rate tuition as of this fall, and stated that there is no need for an extra year of grandfathering. President Fuller noted that the tuition element of Pathways will now be implemented in fall 2015, and explained that MiSU wishes to continue its Grow ND tuition offering until that point in time.

In response to a request for explanation from Ms. Reichert, President Fuller explained that the Grow ND plan was initiated three years ago and approved by the Board to make MiSU more competitive with other institutions despite its location. An underlying premise was to recruit out-of-state students as a way to increase graduation rates while increasing enrollment, in order not to cause a negative financial impact. Ms. Reichert asked if MiSU could not recruit out-of-state students without this tuition structure; President Fuller responded that MiSU could do so, but would have to change its pitch on tuition.

Chancellor Shirvani asserted that this extension would give students a fifth year of flat-rate tuition. Dr. Diederich asked how many students were affected by this, and what the revenue impact of the additional year of grandfathering would be. President Fuller estimated that 400-500 fall 2015 enrollees could be affected. Ms. Reichert asked about the difference in tuition rates
between Grow ND and the Pathways tuition model; President Fuller explained that the Pathways model would charge out-of-state students up to 1.75 times in-state tuition rates.

Ms. Glatt explained that any out-of-state students currently enrolled at MiSU would be grandfathered under the Grow ND plan for four years, and clarified that this request pertains only to the tuition rates offered to fall 2015 out-of-state enrollees. Mr. Hull appreciated the opportunity to continue the Grow ND plan for an additional year in the interest of fairness to students who have come to MiSU.

**It was moved** by Hjelmstad, seconded by Hull, to approve a one-year extension of the MiSU tuition grandfathering under its Grow ND plan before implementing the Pathways tuition model. Espegard, Diederich, Hjelmstad, Reichert, and Hull voted yes; Neset, Morton, and Shaft voted no. The motion carried.

Financial and Facility Agenda

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

- **NDSU requests ratification of the Chancellor’s interim authorization to proceed with a network upgrade (infrastructure improvement), and server and storage upgrade**, estimated at $3.7 million to be funded from $3.3 million in appropriated funds and $400,000 from student technology fees.
- **Ratify the Chancellor’s interim authorization for NDSU to increase the project authorization amount for the replacement of the roof on Ceres Hall by $150,000 from $800,000 to $950,000 to be funded from 2011-2013 extraordinary repair funds**.
- **UND requests authorization to install fiber optic cable infrastructure**, along with related equipment, within the student housing campus.

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

Ms. Glatt explained agenda item 15, an interfund borrowing transaction at MiSU. MiSU has entered into long-term contracts with advertisers for space on a new scoreboard. Ms. Glatt stated that MiSU considered a financing arrangement to pay for the scoreboard upfront; however, MiSU would avoid $100,000 in financing costs by borrowing money from other institutional funds, and repaying those funds over time with advertising revenue. The transaction would create a deficit balance for the purchase of the scoreboard, which would be reported to Board. Ms. Glatt stated that MiSU would create a repayment plan that it would disclose with its annual financial statement. NDSU has engaged in the same kind of transaction in the past.

President Espegard stated that it is unusual for an institution to borrow from its reserves, but considered the scoreboard a good use of reserve funds that are available to institutions. He asked whether it would be acceptable for the MiSU foundation to guarantee the funding. President Espegard appreciated the cost-saving measure, but expressed a dislike for deficit financing.
President Fuller stated that MiSU discussed a guarantee with its foundation, but the foundation was not interested in helping the deficit fund approach. Ms. Hoffarth asked about the life expectancy of scoreboard, noting that the arrangement would require seven years to pay off the borrowed amount. She also noted that the scoreboard would continue to generate revenue after being paid off. Dr. Hjelmstad stated that the revenue source for the transaction is six companies who have pledged $20,000 each for advertising space on the scoreboard.

**It was moved** by Hjelmstad, seconded by Morton, to **authorize MiSU to proceed with an inter-fund borrowing transaction** to fund the purchase of an electronic scoreboard for Herb Parker Stadium. Morton, Shaft, Hjelmstad, Reichert, and Hull voted yes; Espegard, Neset, and Diederich voted no. The motion carried.

Ms. Glatt next reviewed agenda item 16, regarding the construction of a $4 million press box at MiSU. The project would involve a capital lease with a financing partner and the approval of a JPA with the city of Minot. The improvement, Ms. Glatt continued, would include a press box and space for concessions, ticketing, merchandise, and meetings. The Board had previously authorized MiSU to seek $11 million in fundraising for athletic facility improvement, and this project is part of that request. A Minot city ordinance approved to give MiSU $1 million per year for 4 years after the city first allocates funds to the Northwest area water project. MiSU would finance the upfront cost and use the $4 million distribution over 4 years to repay its financing, Ms. Glatt, concluded.

Dr. Hjelmstad explained that for the annual $1 million contributions from the city, MiSU is the first alternative project paid from the city sales tax. President Espegard clarified that the Northwest area water project was paid first; Ms. Glatt concurred, noting that the city’s obligation for that payment is fully funded, and that there should be no concern about the city’s fund balance for payment over the course of the agreement.

**It was moved** by Hjelmstad, seconded by Neset, to approve agenda item 16, in which **MiSU seeks authorization to proceed with construction of a $4.0 million new press box**, including a capital lease with a financing partner. MiSU also seeks approval of the attached joint powers agreement related to payment of $4 million by the City of Minot to fund construction of the new press box. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

Ms. Glatt introduced item 20, regarding UND’s request for approval of its lease of the Gorecki Alumni Center for UND Admissions and Enrollment Management. The planning and design of the building, Ms. Glatt explained, began in spring 2011, and the building was occupied in September 2012. In the interim period, there was a Board policy change requiring leases costing more than $500,000 to be submitted for Board or chancellor approval; the chancellor has deferred to the Board for this lease. Ms. Glatt explained that the lease payments total $1.4 million to allow UND to permanently relocate its admissions and enrollment management offices and pay for building improvements. Ms. Glatt did not recall seeing an ongoing obligation from UND to its foundation for this building, and brought to the Board’s attention examples of UND’s use of the facility on ongoing and intermittent bases.
President Espegard called the Gorecki Alumni Center a wonderful building, but also did not recall that there would be a considerable financial obligation for NDUS in the location change of UND’s admissions office. He observed that the policy change took place in April 2012, and asked when the lease was entered. Ms. Glatt responded that the lease term began in October 2012. President Espegard noted that UND was responsible for $900,000 in improvements to the building under the lease.

Ms. Brekke explained that the facility was originally planned without anticipating the presence of admissions and enrollment offices. In the facility’s design stages, however, UND was presented an opportunity requiring rapid decision-making to relocate those offices. The lease price, Ms. Brekke continued, is based on recovering costs of facility use, not to amortize the cost of the building; she added that the costs are estimated because the facility is new. As for leasehold improvement, changes were made in the design to accommodate the UND offices, maintain LEED certification, and furnish the building appropriately. At the time the agreements were entered, Ms. Brekke concluded, no Board approval was necessary under its policies; it was only in finalizing the lease that UND realized the new need for Board approval.

President Espegard asked how the cost incurred helped students. Ms. Brekke explained that moving admissions and enrollment management to this building allowed UND to co-locate offices and departments on campus that are presently scattered and free up space for still more groups to co-locate. Ms. Brekke also explained the $900,000 in design modifications at the request of President Espegard.

It was moved by Morton, seconded by Shaft, to approve agenda item 20, in which UND requests approval of its UND Gorecki Alumni Center lease for UND Admissions and Enrollment Management. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, and Reichert voted yes; Hull voted no. The motion carried.

Personnel Agenda
Chancellor Shirvani read to the Board the terms of President Darling’s appointment letter, explaining that the terms are in concert with the presidents of the other two-year institutions, and recommending that the Board approve the appointment.

It was moved by Hull, seconded by Hjelmstad, to approve the letter of appointment for LRSC president Doug Darling. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

Chancellor Shirvani next explained that the NDUS Foundation has a vacancy for which he has nominated Dr. Hjelmstad. He recommended that the Board approve the nomination.

It was moved by Diederich, seconded by Hull, to approve the appointment of Dr. Terry Hjelmstad to the NDUS Foundation. Espegard, Neset, Morton, Shaft, Diederich, Reichert, and Hull voted yes; Hjelmstad voted no. The motion carried.
**It was moved** by Neset, seconded by Morton, to approve the appointment of Mr. Brian Leier to SBARE. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

Dr. Haller presented a report on faculty appointments as required by Board Policy 602.2. He described a matrix provided to the Board that explains the categories of faculty appointments. According to Board Policy 505.1, regarding academic freedom and tenure, Dr. Haller continued, tenure is awarded by the Board on the chancellor’s recommendation after institutions first follow procedures and make favorable recommendations. Additionally, to award tenure, an applicant’s appointment must meet fiscal management and academic priorities, and the candidate must demonstrate satisfactory teaching; research, scholarship, and creative activity; and service to the institution and society. Faculty become eligible for tenure after a six-year probationary period, during which there is an annual evaluation process designed to foster continued improvement. The Board may also award tenure in exceptional circumstances to chief academic officers or others appointed to institution faculty, provided that the faculty member has previously held a tenured position.

Dr. Haller first recommended approval of the tenure requests included in the Board materials. He also recommended the award of tenure to incoming UND Provost Thomas N. DiLorenzo, who came to Grand Falls from the University of Alabama at Birmingham, where he served as the vice president for innovation, commercialization, and entrepreneurship; served as the dean of the college of arts and sciences; and created the honors college. Dr. Haller also recommended the award of tenure to Dr. Chih Ming Tan as the incoming Professor and Page Endowed Chair of Applied Economics in the UND Department of Economics; Dr. Tan comes to UND from Clark University in Worcester, Massachusetts.

Chancellor Shirvani stated that all tenure appointment requests have his full support and recommendation.

**It was moved** by Hull, seconded by Reichert, to accept the tenure report and approve all tenure requests. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

Dr. Haller next recommended two individuals to receive honorary degrees from UND. Dr. Norman Skalicky, a 1955 UND graduate, founded Stearns Bank and became a leader in affordable housing finance, construction finance, and small business lending. Other accomplishments of Dr. Skalicky include an employee stock ownership program, an eponymous foundation, and five decades of alumni involvement, including an eponymous building and the founding of a scholarship program. Dr. Haller also recommended Ms. Louise Erdrich, a North Dakota native whose mother was from the Turtle Mountain Ojibwe Reservation. Ms. Erdrich is a contemporary Native American writer, having authored 13 novels, 3 poetry books, 2 non-fiction books, and 7 other works. Her debut novel, *Love Medicine*, demonstrates her typical lyrical skill and emotional assurance that compares to Faulkner and Cather and is deeply rooted in the American landscape.
It was moved by Hjelmstad, seconded by Diederich, to approve UND’s honorary degree requests. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

President Espegard then asked Dr. Haller for a comment on the NDUS’s interaction with the Higher Learning Commission. Dr. Haller explained that Dr. Ellen Chaffee wrote Sylvie Manning, the president of HLC, in the form of a complaint requesting sanctions against the Board. To date, the NDUS has not heard from the HLC, but the NDUS will gladly respond if the HLC contacts the system. Mr. Morton asked what the main complaint was; Dr. Haller responded that he sees the letter as requesting sanctions for the Board having hired the chancellor. Ms. Hoffarth asked what sanctions could be imposed by the HLC; Dr. Haller replied that sanctions would only come after complaints and responses, and noted that many institutions receive complaints on a regular basis.

Academic Agenda
Dr. Haller explained that these academic requests have been reviewed by the Academic Affairs Committee, the Student Affairs Committee, and the Cabinet before reaching the Board.

It was moved by Hull, seconded by Shaft, to approve the following academic requests:

- DCB—Program Approval—A.A.S. in Photography
- DSU—Program Approval and Distance Learning Activities—Minor in Equine Science
- MaSU—Program Approval—B.S.Ed. in Special Education
- NDSCS—Department Title Change
  - From: Computer Information Systems Department
  - To: Information and Communications Technology Department
- NDSU—Institutional Organization—Fraud Education and Research Institute
- NDSU—Program Approval—Certificate in Professional Selling
- VCSU—Program Approval—Major in Software Engineering
- UND—Program Approval and Distance Learning Activities—M.S., Ed.D., and Ph.D. in Higher Education
- UND—Program Termination—B.S. in Natural Science

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

Board Policy Manual
Dr. Haller told the Board that the proposed academic policy revisions bring Board policy into conformance with Pathways. Policy 402.1.2 revisions urge students to take the ACT as soon as possible and no later than their junior year of high school to contribute to their admissions index score, and sets ACT subscores of 18 in English and 21 in Math as thresholds for regular college coursework. Policy 403.9 clarifies that developmental courses do not count toward graduation credit, but do count toward full-time course loads and financial aid requirements.

It was moved by Hull, seconded by Shaft, to adopt revised Policy 402.1.2, Admission Policies – Student Placement into College Courses, and revised Policy 403.9, Developmental Courses, on
first reading. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

Policy 305.1, College and University Presidents’ Authority and Responsibilities
Chancellor Shirvani stated that in September, the Board approved sixteen revised policies, including this one. Policy 305.1 has been brought back to presidents, who have refined the policy over three Cabinet meetings into a form that is now satisfactory to presidents save for one item. Under the policy, presidents are appointed for 3-year terms, and can be reappointed for up to 3 years. There is no longer a thirty-day notice provision for termination without cause. Chancellor Shirvani recommended the approval of the revised policy, suggesting that the Board call on presidents for their input.

President Espegard reminded the Board that he had asked previously that all policies adopted in September be reevaluated to ensure proper input. In revising this policy, he continued, he did not want to change executives’ roles.

Ms. Hoffarth noted that the Board also changed policy regarding vice chancellors and senior staff, Board Policy 608.2. She asked for clarification that employees already in place before September 26, 2012, be grandfathered under the former version of the policy. Ms. Holloway explained that the policy was effective at the time of its passage, but that while the former general counsel had made a grandfathering comment at that meeting, the Board took no official position on that. Chancellor Shirvani said that he has accepted the former general counsel’s interpretation, but not acted on it. He welcomed a further conversation about the policy at a future Board meeting.

Dr. Diederich asked when the Board might renew a president’s contract for 1 year, rather than 3 years. Chancellor Shirvani explained that the policy was meant to provide flexibility for the Board’s decision-making.

Ms. Reichert asked for clarification on what parts of the policy changed. Ms. Holloway replied that the new revision more fully reflects presidents’ role as involved in the planning, vision, and governance of their institution. The main focus, she continued was on paragraph seven; the Cabinet had extensive discussion about retreat rights, and the majority of changes occurred there.

Chancellor Shirvani clarified that there is no hurry to approve the revised policy. Ms. Reichert noticed the first line of the policy, that presidents “serve[] at pleasure of Board,” as seemingly contradictory. Ms. Holloway explained that as standard language in academia, stemming from the origination of presidential posts as appointments as opposed to contractual agreements. Ms. Reichert asked Ms. Holloway to summarize her research. Ms. Holloway explained that she spoke with general counsel in Minnesota, which also has the language in question. What to do with that language is a decision for the Board, Ms. Holloway concluded.

Chancellor Shirvani offered to send best practices with a redlined version of the revised policy; Ms. Holloway warned that there is not much consensus in best practices. President Espegard stated that this would serve as the policy’s first reading to the Board, and would be read again at its next regular meeting.
**Report on bond issue compliance program**

Ms. Holloway informed the Board that it issues bonds to raise capital. These bonds are often exempt from federal taxes, but have regulatory requirements to attain that status. The NDUS’s outside bond counsel has sent a suggested compliance policy that is recommended by the IRS. No such policy has been established at the system level before, Ms. Holloway observed, though UND and NDSU have such policies in place. She concluded that she would work with bond counsel and the counsel at the research universities, bringing any proposed policy back to the Board.

**Update on McKenzie County mineral rights lease**

Ms. Holloway explained that she had met with representatives of NDSU’s Williston research extension center to allow a lease of mineral rights on its land. The Board approved the process, and the lease was auctioned for a $24,500 per acre bonus, and 20 percent royalty. After auction, the NDUS learned that there was perhaps already a productive well in the area tapping into the land’s oil rights. Currently, counsel is looking back at extant leases’ spacings to determine if the mineral rights are affected. The NDUS had never received notice of such a well, and there is a question as to why it did not. President Espegard noted that there may be back royalties due for the production.

Ms. Neset stated that this was the right approach to take in response to the developments. The lease amount, she continued, is high enough to be a red flag. Ms. Neset reiterated that it was correct for Ms. Holloway to research this issue for unresolved questions before acting. President Espegard asked if the Board needed to take any action; Ms. Holloway replied that she should conduct further research into the options regarding the auctioned lease first.

**Report on legal counsel reporting structure**

President Espegard asked about the feasibility of general counsel reporting to the Board. Ms. Reichert raised a question of independence based on whom the general counsel reports to. Given that Ms. Holloway reports to the chancellor, President Espegard asked, what representation does the Board have?

Ms. Holloway welcomed the opportunity to clarify the reporting structure for legal counsel. She explained that both the Board and the chancellor are her clients, with all professional ethical responsibilities flowing to both relationships, including the obligations to communicate and inform clients. Although the chancellor supervises the general counsel, Ms. Holloway concluded, professional ethics guide her treatment of both the chancellor and the Board as clients.

Ms. Neset praised the exhaustive study Ms. Holloway completed in March in response to allegations against the Board and chancellor, and thanked her for her impartiality. Chancellor Shirvani also commended Ms. Holloway for her tireless work on a variety of issues and requests.

Ms. Reichert stated her confusion on the reporting structure, noting that Mr. Bill Eggert, director of internal audit, reports to the chancellor, though he communicates with the Board. Ms. Holloway clarified that it is common for lawyers to report to general counsel, who reports to a CEO. That reporting structure, however, does not stop an attorney from raising issues to the
Board if there are ethical or legal concerns about the CEO. An attorney’s professional ethics take care of concerns about independence, Ms. Holloway concluded. Ms. Reichert then asked when the Board would need outside counsel to avoid the appearance of conflict. Ms. Holloway stated that the Board could choose to do so when it wants, adding that she must recuse herself when ethically obliged and when required to uphold her responsibility for meeting ethical requirements to the attorney general, as an appointed special assistant attorney general.

**Open meetings guidance**
Ms. Holloway indicated that the Board has lately had difficulty with open meetings laws. She explained that she is required to respond to the attorney general by May 10 in response to an inquiry, and is waiting on responses from Board members to inform that response. The NDUS also needs to take Board members’ recollections to make minutes for non-noticed meetings, and must collect and retain Board members’ emails from Board members. The Board also is required to go through a two-hour open meetings law training with Mary Kay Kelsch and Sandy Voller from the attorney general’s office.

**Recommendation regarding Board committee structure**
Ms. Holloway explained that under North Dakota open meetings laws, with committees of 3 or 4 people, the conversations of 2 committee members trigger open meeting requirements. The Board could simply follow the law, she continued, but the NDUS has previously provided the rules to the Board on multiple occasions and the Board has failed to follow them. To simplify the Board’s interaction and conducting of public business, it would be beneficial to eliminate the Board’s committee structure. President Espegard recommended that the Board dissolve its committees.

*It was moved* by Hjelmstad, seconded by Shaft, to dissolve the Board committee structures. Espegard, Neset, Morton, Shaft, Diederich, Hjelmstad, Reichert, and Hull voted yes. The motion carried.

**Report on University System human resources**
Ms. Franzen explained that Ms. Reichert had requested a human resources report from the NDUS office. Ms. Franzen stated that employees are coming up for air after an arduous legislative session that required long hours, and holiday and weekend work. Many employees are taking vacations, which should refresh the staff and aid the office dynamics. Ms. Franzen explained that she is also trying to restructure the employee evaluation process to have supervisors take the lead, and she will survey the office after the evaluation process to get feedback on the process’s effectiveness. She also is investigating the training that occurs in the office, with an eye toward increasing leadership training.

The Board had also previously asked Ms. Franzen to conduct exit interviews, she said. In her recent exit interview with Mr. Eggert, a general issue was the level of communication within the organization. To some extent, Ms. Franzen stated, a paucity of communication can be attributed to the quick-moving office environment during the legislative session.

**Discussion of House Concurrent Resolution 3047**
Mr. Shaft explained that he was asked to comment on HCR3047, a resolution to restructure the Board that will appear on the next general election ballot. He summarized the details of the resolution for the Board. Mr. Shaft observed that unlike the current Board, the commission contemplated by the resolution would not have any limitations on the residential or institutional backgrounds of its members, and the commission would be required to follow potential statutory provisions. There is also no staff advisory representation, he noted. President Espegard observed that the resolution would replace the chancellorship, though it provides that the commission could hire a commissioner within its structure. Mr. Shaft indicated that the Board would need to provide a formal response down the line, after considering the resolution more fully.

Closing Remarks
Chancellor Shirvani expressed a desire to acknowledge formally the unprecedented support that the legislature provided the NDUS in its budget. He cited the conference committee’s agreement to provide the NDUS $2 million in governance funding, $3 million to centralize the system’s attorneys and auditors, $5 million for competitive performance funding for campuses, $10 million for deferred maintenance projects, $2.5 million for security initiatives, and $5.4 million pooled capital financing. Chancellor Shirvani stated his gratitude to the legislature, its leadership, and the conference committees for their work. President Espegard echoed the chancellor’s comments while also thanking the NDUS staff and the chancellor for their work during the session. He also thanked Board members who attended hearings on bills affecting the NDUS and the presidents for their testimony before legislative committees.

Ms. Reichert asked about the details of the meeting for Board elections and the attorney general’s training. Chancellor Shirvani stated that there was flexibility in scheduling the meeting, especially with the Board retreat in Medora approaching. Ms. Reichert raised the point that Mr. Eggert has an audit report to deliver to the Board, and also mentioned her concern about completing the chancellor’s performance review within the appropriate timeline.

The meeting adjourned at 5:04 p.m.