North Dakota State Board of Higher Education
Minutes – September 25, 2013

Members present:
Dr. Kirsten Diederich, President
Mr. Don Morton
Ms. Kari Reichert
Mr. Devin Hoffarth
Ms. Kathleen Neset

Dr. Terry Hjelmstad, Vice President
Mr. Duaine Espegard
Mr. Grant Shaft
Ms. Janice Hoffarth, Staff Adviser
Dr. Douglas Munski, Faculty Adviser

Staff members present:
Dr. Larry Skogen, Acting Chancellor
Dr. Michel Hillman, Interim Vice Chancellor for Academic and Student Affairs
Ms. Lisa Feldner, Vice Chancellor for Information Technology and Institutional Research
Ms. Claire Holloway, General Counsel
Ms. Linda Donlin, Director of Communications and Media Relations
Ms. Kirsten Franzen, Chief Compliance Officer
Mr. Noah Brisbin, Assistant General Counsel
Ms. Kristie Hetzler, SBHE Assistant

The State Board of Higher Education met on Wednesday, September 25, 2013, at 1:00 p.m. CT, in the National Energy Center of Excellence, Room 335, Bismarck State College, 1815 Schafer Street, Bismarck, North Dakota.

Approval of Board agenda
It was moved by Hoffarth, seconded by Reichert, to approve the Board agenda with the addition of a report on office performance funding. Motion carried unanimously.

Approval of minutes for June 20, and July 31, 2013 meetings
It was moved by Shaft, seconded by Hoffarth to approve the minutes for the Board’s June 20 and July 31, 2013, meetings. Motion carried unanimously.

Board President's Report
President Diederich thanked the institutions and system office staff for their thoughtful input towards the draft letter to Higher Learning Commission. The next step is to take that input and work together with the other board members to put together a response letter for the HLC. A training session for all board members is currently being scheduled with the Association of Governing Boards to ensure we are committed to best practices for governance and for the success of our students. President Diederich was at an event hosted by the Greater North Dakota Chamber of Commerce and was pleased to announce that there were several conversations that expressed support for the board. President Diederich stated she had the privilege of speaking at the North Dakota Student Association and was impressed with their commitment to moving the system forward.

Update on MiSU Presidential Search
Acting Chancellor announced the first meeting was at Minot State University and there was several staff, students, and community folks present. Dr. Hjelmstad indicated that the first steps of profiling and job description are complete; the next steps will be to screen the applicants and conduct IVN interviews.

**Acting Chancellor’s Report**

System wide master plan and space utilization study, the goal is to have an RFI or RFP out by mid-October. The taskforce will address infrastructure, including communication and utility systems, as well as facilities, with a six phase process they have already started. There is currently a performance funding taskforce that is working on developing criteria for distribution of the funds based on fall to spring retention at initial institution, fall to fall retention within the NDUS, and number of students awarded degrees between July 1 and June 30 of each year. Once that is complete it will be brought back to the board for review and any adjustments needed. The roles and responsibilities taskforce is put in place and a schedule of meetings is being developed. Update on system office staff positions that are currently available.

**North Dakota Student Association Report**

Jennifer Vetter provided a handout indicating support of pathways to student success and requests the board and North Dakota University System office further evaluate the effectiveness of the admissions index and its impact on campus enrollment. The next NDSA meeting is scheduled for October 25th and 26th at University of North Dakota.

**Council of College Faculties (CCF) Report**

Dr. Munski indicated that the NDUS Council of College Faculties would like the State Board of Higher Education to name the candidate for interim chancellor that they feel best represents the academic goals of the campuses and system, and also represents open and consultative lines of communication among the State Board of Higher Education, the SBHE staff, and the system faculty.

**Staff Senate Report**

Ms. Hoffarth asked that the employee tuition waiver be brought back for review by the chancellor. There are several SITS and system office employees that are not represented by staff senate, we are currently helping establish one for them.

**Discussion and action on MiSU and DCB alignment**

Background on history and the board was asked if they would support moving in the direction of Dakota College at Bottineau and Minot State becoming independent of one another by approving the subject be open for discussion. Dean Grosz provided background information for the board, board members indicated that this has been discussed in the past, now is a good time to consider it since it is a transition period with Dr. Fuller’s retirement and the current presidential search.

*It was moved* by Shaft, seconded by Hoffarth, to open discussion and to allow engaging stakeholders, including the communities of Bottineau and Minot, in discussions about the possibility of making Dakota College at Bottineau a stand-alone institution. Motion carried unanimously.

**FY14 Audit Plan**

Tim Rerick and Eric Miller, the NDUS auditors, along with Laura Glatt reviewed the FY14 audit plan to the board. Board members expressed concerns; the plan is insufficient and asked for more details and the plan was too scaled back. Laura Glatt explained, at this time we have limited resources, currently there is a vacancy in the chief auditor position, and a couple other audit positions. She explained the focus was on the high risk items until the vacancies are filled, the plan is to get more in depth when there are more hands on to help. Board members suggested that at this point an outside consultant or a recruiter should be considered as soon as possible. Board members and Ms. Glatt discussed what the next steps on hiring
system auditors should be and agreed the importance and urgency. Laura asks the board to approve the current audit, with the exception that a complete audit plan will be brought back to the board for approval.

**It was moved** by Espegard, seconded by Reichert, to proceed with the presented audit plan as a provisional measure only until a thorough and satisfactory audit plan is presented to and approved by the board.

**Project Management Oversight Guidelines**
Ms. Glatt presented a proposed three part plan to comply with the new project oversight requirement outlined in SB2003. Under the proposed guidelines, a project is automatically deemed to have appropriate project oversight in place if: 1.) an external construction manager is in place; or 2.) the campus designated project manager holds a professional degree as an architect, engineer or construction manager and has related successful project management experience; or, 3.) is a licensed professional (e.g. architect, engineer or construction manager). If the campus does not meet these “automatic” criteria, the campus would be required to complete the AIA modified project management requirement checklist for successful project management for review and approval at the time the authority preceeding project authorization sought from the SBHE. Board members were concerned with, what kind of review would be done and assurance the SBHE has that when projects come to the SBHE for authority to proceed, that these have had sufficient review, including consistency with legislative intent and scope and budget restrictions. Ms. Glatt indicated that with the addition of a NDUS Facilities Planner with the appropriate expertise, a more detailed review may be possible.

Mr. Shaft suggested that while it would be appropriate to approve the proposed guidelines today, he asked that the guidelines be reviewed after a Facilities Planner is hired to determine if more change is needed in the future.

**It was moved** by Shaft, seconded by Morton, to proceed with the oversight guidelines, with a stipulation, after a project manager is hired through the system office, it will come back to the board for further review. Motion carried unanimously.

**2013-15 Deferred Maintenance Pool**
SB2003-the NDUS appropriation bill-includes $10 million in deferred maintenance funding to the NDUS and provides for the following specific legislative intent; the deferred maintenance funding pool line item includes funding that must be used to address deferred maintenance and other infrastructure needs at institutions based on the university system master plan and space utilization study. However, the state board of higher education may distribute up to one-half of the funds in the pool to institutions prior to the completion of the master plan and space utilization study. Ms. Glatt indicates that special assessments that some institutions incur is also taken into consideration.

**It was moved** by Espegard, seconded by Shaft, to approve the proposed criteria for allocation of the capital projects contingency pool. Motion carried unanimously.

**Capital Projects Contingency Pool**
Ms. Glatt gave an overview on the 2013-15 capital projects contingency pool guidelines, all projects must be designed and bid based on the reduced project amount (original project amount less 4.45%/2.17%), for fiscal year 2014, campuses (excluding the SMHS) may request an allocation from the capital projects contingency pool, up to a maximum of 4.45% of the legislative appropriation for that project, if the lowest acceptable bid (or CM maximum price) exceeds the legislative appropriation provided for the project. The SMHS may submit a request for an allocation from the capital projects contingency pool, up to a maximum of 2.17% of the legislative appropriation for that project, if the lowest acceptable bid (or CM maximum price) exceeds the legislative appropriation provided for the project. The NDUS Office will
consider and review each individual project request as submitted, with the Chancellor making an allocation recommendation of between 0-4.45 percent (2.17% at SOMHS) to the SBHE, who has the final allocation authority. At the end of fiscal year 2014, the allocation criteria will be re-evaluated based on remaining funds, and adjustments to the guidelines may be made, as necessary.

**It was moved** by Morton, seconded by Espegard to approve the proposed criteria for allocation of the capital projects contingency pool. Motion carried unanimously.

**FY14 NDUS office budget**
Laura Glatt gave an overview on the 6/30/13 semi-annual budget report. The audit and budget finance committee is no longer in place, it was suggested that the committee be reestablished. President Diederich agreed, and stated that it would be a good idea to put other committees back together as well to assist us in getting through some business and prepare for the next legislation.

**It was moved** by Hoffarth, seconded by Espegard, to approve the proposed FY14 North Dakota University System office budget. Motion carried unanimously.

**Pathways to Student Success**
Mike Hillman presented pathway to student success policy issues to the board and gave examples of how the plan and some policies conflict. Some board members indicated that policy and procedures should adjust to pathways, pathways should not be adjusted to policy and procedures. Members agreed that working with K12 and the institutions presidents’ is necessary but pathways should not be watered down, there has been a lot of collaboration and all input is considered. They suggested that the implementation move forward and the board will continue to be very receptive to the issues and they can be worked out as they come up. President Diederich expressed she fully supports pathways, however, there are concerns that need to be addressed. She indicated that the presidents have not been engaged on a level that they should be, the impact that UND and NDSU will face, and that the students will be hindered if implementation is not done cautiously. Mr. Shaft agreed that UND and NDSU will have the greatest impact immediately, but stated they also have the most to gain in the future. Ms. Reichert indicated that all the board members are saying the same thing, it is agreed that we should work with the campus, their expertise will help us work through the issues, let’s be flexible but stay on course. Glatt referenced the financial ramifications should be considered. Dr. Skogen stated that everyone agrees that we all want the best education for our students; the plan is not being intentionally delayed, any policy changes will be brought to the board for review.

**Semi-Annual Budget**
Laura Glatt gave an overview on the 6/30/13 semi-annual budget report. Campuses are required to report to the State Board of Higher Education on a semi-annual basis anytime one or more of the conditions noted exist. If none of these conditions exist, campuses are not required to submit a report, but must notify the NDUS Office that none of these conditions exist. The audit and budget finance committee is no longer in place and with the next legislative session coming up we should consider reestablishing the committee. President Diederich agreed that it would be a good idea to put some committees back together to assist us in getting through some business and prepare for the next legislation.

**Valley City State University Mission and Vision Statement**
Dr. Shirley indicated the change was a result the institutions last audit, the campus was advised to update their mission and vision statements.

**It was moved** by Espegard, seconded by Neset, to approve the new mission and vision statements for Valley City State University. Motion carried unanimously.
Financial and Facility Agenda

- Authorize UND to raise funds of up to $15,500,000 for the construction of UND Collaborative Energy Complex (CEC), a 30,000 square foot laboratory, teaching, and interdisciplinary center dedicated to energy study and research.
- Allocate $260,000, or $130,000 each to UND and NDSU, in support of doctoral programs for the 2013-15 biennium from the Education Incentive Program line-item.
- Ratify Chancellor’s interim approval to proceed with the installation of a replacement elevator in UND Leonard Hall at an estimated cost of $340,000 funded from 11-13 and 13-15 state capital assets extraordinary repairs funds.
- Approve DCB transfer of $1,500 from the operations line to the capital assets line, per SB2003 (2013) Section 35.
- Ratify Chancellor’s interim authorization to proceed with a renovation in the NDSU Auxiliary Enterprise Building for $475,000 to be funded from 11-13 appropriated operations funding; furthermore, authorize the transfer of $475,000 from operations to capital assets per HB1003 (2011), Section 12.
- Authorize UND to proceed with construction of the new School of Medicine and Health Sciences (SMHS) at an estimated cost of $122,450,000 to be funded $60,450,000 from 13-15 UND state general fund capital assets appropriation, with the balance funded from either Bank of ND loan or general fund appropriation in the 2015 legislative session. Further authorize the State Board of Higher Education (SBHE) to borrow funds of up to $62 million from BND, if required.
- Ratify Chancellor’s interim approval to increase spending authorization for miscellaneous renovation projects throughout the existing School of Medicine and Health Sciences (SMHS) facility from $475,000 to $642,000, an increase of $167,000 to be paid from SOMHS local funds.
- Ratify Chancellor’s interim approval authorizing allocation of $251,433 from the 13-15 NDUS capital projects contingency pool for the LRSC Erlandson Technical Center Expansion and Renovation project; further, increase the Erlandson Technical Center Expansion and Renovation Project amount from $5,650,184 to $5,901,617 to be funded $5,650,184 from the LRSC 2013-15 capital assets appropriation and $251,433 from the 13-15 NDUS capital projects contingency pool.
- Approve Chancellor’s interim authorization to apply for a Boundary Line Adjustment with the City of Fargo for Lots 3 & 4 of the NDSU Research & Technology Park 1st Addition.
- Request and approve the Resolution authorizing the issuance of $8,300,000 State Board of Higher Education of the State of North Dakota, University of North Dakota Housing and Auxiliary Facilities Revenue Bonds and Authorizing the Execution of a Supplemental Indenture of Trust, Bond Purchase Agreement and Related Documents.
- Approving name change from the NDSU Industrial Agricultural and Communications Center (IACC) to the Quentin Burdick Building.
- Authorize NDSU to proceed with the construction of the new STEM Classroom/Lab building in the amount of $28,120,000 to be funded from 13-15 state general funds capital asset funding.
- Ratify Acting Chancellor approval authorizing BSC to proceed with Phase I of the Communications and Creative Arts Center with an estimated total cost of $13,300,000, $12,635,000 from general funds and $665,000 from special funds derived from donations or other income. In addition, ratify Acting Chancellor approval of a formal fundraising campaign by the Bismarck State College Foundation for a portion of Phase I of up to $665,000 and $6,000,000 for Phase II of the Communications and Creative Arts Center which consists of construction of a theatre.

It was moved by Espegard, seconded by Hoffarth, to approve financial and facility items 18-30, Motion carried unanimously.

Personnel Consent Agenda
Approve tenure requests

**It was moved** by Morton, seconded by Espegard, to approve the tenure requests. Motion carried unanimously.

**Academic Consent Agenda**

BSC – New Institute
- Institute for Culture and Public Service

NDSU – Institutional Organization
- Center for Quality, Reliability, and Maintainability Engineering Organization
- The Upper Midwest Center on Public Policy
- Division of Fine Arts to College of Arts, Humanities, and Social Science

**It was moved** by Morton, seconded by Hjelmstad, to approve academic items 32 and 33. Motion carried unanimously.

**Board Policy Manual**
- Policy 830.1: Student Payment, 1st reading and Policy 440: Enrollment Reporting, 1st reading

**It was moved** by Hjelmstad, seconded by Neset, to approve policies for a second reading with amendment, adding “or” in section 3b,1-4. Motion carried unanimously.

- Policy 330: Policy Introduction, Amendment, Passage, 1st reading

**It was moved** by Neset, seconded by Morton, to approve policy for a second reading. Motion carried unanimously.

- Policy 601.1: Presidential Searches, 2nd reading, and final passage

**It was moved** by Hjelmstad, seconded by Hoffarth, to adopt policy. Motion carried unanimously.

- Policies 304.1 and 604.2

Claire Ness opened discussion on policies, 304.1 and 604.2; they are currently being reviewed and asked for any input or guidance. Ms. Ness announced that council will move forward with the revisions and bring to the board for a first reading. Ms. Ness stated that policy 304.1 will be worked on after the roles and responsibilities taskforce has met a few times.

**Interim Chancellor selection**

Dr. Narcisa A. Polonio, Association of Community College of Trustees (ACCT) joins meeting via conference call / IVN.

President Diederich asked the board members to go around the table and individually identify their preferred candidate for interim chancellor and identify the reasons for their selection.

**It was moved** by Espegard, seconded by Morton, to approve discussion and verbal vote as the procedure for the selection of the interim chancellor. Motion carried unanimously.
Mr. Espegard, Mr. Shaft, and Ms. Neset voted for Shane Goettle stating he brings a much needed perspective, he has been successful in leadership, has experience working in the executive office, and taking one of the systems presidents’ would be a conflict of interest for the board. They also noted that by hiring Shane Goettle for interim chancellor, the system would benefit from having both Mr. Goettle and Dr. Skogen.

Mr. Morton, Mr. Hoffarth, Dr. Hjelmstad, Ms. Reichert, President Diederich voted for Dr. Larry C. Skogen stating that he has the academic leadership experience, knowledge of current system issues such as the Higher Learning Commission, has the ability to move the system forward from day one.

Ms. Hoffarth and Dr. Munski also support Dr. Larry C. Skogen.

It was moved by Espegard, seconded by Shaft to nominate Dr. Larry C. Skogen as the Interim Chancellor. Motion carried unanimously.

President Diederich asked board members to review the contract.

It was moved by Espegard, seconded by Morton to remove the car allowance from the interim chancellor contract. Motion carried unanimously.

It was moved by Espegard, seconded by Shaft to accept the interim chancellor contract. Motion carried unanimously.

NDSU Minard Hall
Chris Wilson, Dan Hull, and Mike Ellingson updated the board members on NDSU Minard Hall stating that it is substantially complete and is in full operation for the Fall 2013 academic term with remaining punch list items being reviewed and completed.

The collapsed related costs continue to be realized as a result of three items:

- Legal fees continue to be incurred.
- Contractors have asked for delay related expenses that are being reviewed.
- Replacement of furniture lost due to the collapse.

It was moved by Morton, seconded by Hjelmstad to change language in two previous approved motions on November 17, 2011. Motion carried unanimously.

Authorize NDSU to proceed with completion of the Minard Hall at an estimated cost of $22,874,300 to be funded with $17,500,000 million in state general fund appropriation, $500,000 gift funds, and $4,874,300 from a 2011-13 deficiency appropriation to future deficiency appropriation.

Authorize NDSU to carry a deficit fund balance on the Minard Hall project as a temporary funding source after the original $18,000,000 of appropriated authority has been expended, until a state general fund deficiency appropriation for NDSU is authorized during the 2013 legislative session to is authorized during the 2015 or later legislative session.
Executive Session for Attorney Consultation regarding NDSU Minard Hall litigation- Chris Wilson and Dan Hull (The Board has legal authority to enter an executive session to consult with its attorney on this matter under N.D.C.C . § 44-04-19.1(5).)

Mr. Wilson recommended the Board approve the following motion to conduct an executive session: According to NDCC 44-04-19.1 and 44-04-19.2, that the State Board of Higher Education hold an executive session for the purpose of attorney consultation regarding pending litigation related to NDSU Minard Hall; further, the executive session shall be limited to members to the State Board of Higher Education, the chancellor and chancellor’s staff, NDSU President and NDSU officers, and NDSU attorneys.

It was moved by Hjelmstad, seconded by Espegard to enter into executive session. Motion carried unanimously. Executive session began at 5:45 pm.

Executive session ended at 6:10 pm.

It was moved by Shaft, seconded by Neset to adjourn.

The meeting adjourned at 6:12 p.m. CT.