

North Dakota State Board of Higher Education
Minutes of the April 30, 2015, Meeting
At Bismarck State College

Board Chair Hjelmstad called the meeting to order at 2:06 p.m. CDT.

Members present:

Dr. Terry Hjelmstad, Chair	Ms. Kathleen Neset, Vice Chair
Dr. Kevin Melicher	Ms. Kari Reichert
Mr. Grant Shaft	Mr. Chris McEwen
Mr. Mike Ness	Mr. Don Morton
Ms. Janice Hoffarth, Staff Adviser	Dr. Eric Murphy, Faculty Adviser

Interim Chancellor present: Dr. Larry C. Skogen

Institution Presidents present:

Dr. Doug Darling, President, LRSC
Dr. Gary Hagen, President, MaSU
Dr. DC Coston, President, DSU
Dr. John Richman, President, NDSCS
Dr. Steve Shirley, President, MiSU
Dr. Ray Nadolny, President, WSC
Dr. Tisa Mason, President, VCSU
Dr. Dean Bresciani, President, NDSU
Dr. Robert Kelley, President, UND
Mr. Dave Clark, Interim President, BSC

NDUS senior staff present:

Mr. Murray Sagsveen, Chief of Staff and Director of Legal Services
Dr. Sonia Cowen, Interim Vice Chancellor for Academic and Student Affairs
Ms. Linda Donlin, Vice Chancellor of Strategic Engagement
Dr. Lisa Feldner, Vice Chancellor for Institutional Technology and Research
Ms. Laura Glatt, Vice Chancellor for Administrative Affairs
Ms. Billie Jo Lorus, Director of Communications
Ms. Cynthia Wagner Goulet, NDUS General Counsel - Bismarck
Ms. Kristie Hetzler, Executive Assistant to the State Board of Higher Education

Approval of Agenda

McEwen moved, Melicher seconded, to approve the April 30, 2015, Board agenda.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

Approval of Minutes

Ness moved, McEwen seconded, to approve the February 26, 2015, SBHE meeting minutes.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

Chancellor's Contract

Hjelmstad stated approval of the Chancellor's contract will be tabled until later in the meeting when negotiations are complete. Mr. Morton stepped out of meeting to negotiate the Chancellor's contract.

MOU between US Immigration & Customs Enforcement Homeland Security Investigations

McEwen moved, Melicher seconded, to authorize the UND Chief of Police to sign a [Memorandum of Understanding](#) between U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HIS) and University of North Dakota Police concerning the appointment of UND Police Department officers as Customs Officers (Excepted).

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

UND Chief of Police Memorandum

McEwen moved, Melicher seconded, to authorize UND's request to enter into the Intergovernmental Agreement for the Establishment and Operation of a Combined Public Safety Answering Point (PSA) in order to participate in consolidated public safety communications to provide the most efficient and effective delivery of public safety and emergency services.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

Election of Board Officers

Ness moved, Melicher seconded, to nominate Ms. Neset as Board President, effective July 1, 2015.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

Ness moved, Melicher seconded, to nominate Mr. Morton as Board Vice President, effective July 1, 2015.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

Melicher moved, McEwen seconded, to nominate Ms. Reichert as Board Secretary, effective July 1, 2015.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

State Board of Agricultural Research & Education (SBARE)

McEwen moved, Melicher seconded, to appoint Mr. Keith Peltier and Mr. Dean M. Wehri to initial four-year terms on the State Board of Agricultural Research and Education beginning July 1, 2015.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

2015 SBHE Meeting Calendar

Dr. Skogen explained the SBHE meeting calendar adjustments are due to Budget and Finance items that need approval, the Chancellor search being completed, and the need for a Dickinson State University presidential search.

Ness moved, Neset seconded, to approve the remaining 2015 SBHE meeting dates:

- May 14 at BSC
- June 24 & 25 SBHE Meeting and Retreat at Microsoft Corporation (Fargo)
- September 3 at WSC
- October 1 at DSU

- October 22 at NDSCS
- November 19 at UND
- December 17 at MiSU

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

WSC Mission Statement

McEwen moved, Melicher seconded, to approve the updated mission statement for Williston State College as follows:

Williston State College, "Where the People Make the Difference", is to provide accessible, affordable, life changing, and life-long educational pathways to residents of North Dakota, the Upper Plains, and beyond.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

Chancellor's Contract

Mr. Morton returned to the meeting and indicated the Chancellor's contract is ready to be reviewed.

Morton moved, McEwen seconded, to approve the new Chancellor's contract term of three-years, for the period July 1, 2015 until June 30, 2018, with standard benefits, an annual salary of \$372,000, and up to \$15,000 in moving expenses for Dr. Hagerott.

McEwen, Morton, Reichert, Melicher, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

NDUS Attorneys and Auditors

Dr. Hjelmstad recommended Ms. Reichert to assist the Chancellor in the termination process of the NDUS attorneys and auditors.

Morton moved, McEwen seconded, to approve Ms. Reichert to work with the Chancellor in the termination process of the NDUS attorneys and auditors.

McEwen, Reichert, Melicher, Morton, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

Mr. Sagsveen explained House Bill 1003, the NDUS appropriation bill for the 2015-2017 biennium, eliminates all funding for NDUS attorneys. Although the chancellor and chief of staff have urged the legislature to continue funding for all attorneys through June 2016 to permit additional time for the transition of legal services to the attorney general's office, the request was denied. Effective July 1, 2015, the attorney general's office will be providing legal services to the SBHE and the eleven institutions. Senate Bill 2003 authorizes attorney full-time employee positions and funds to the attorney general's office to provide legal services to the NDUS system. He further explained that House Bill 1003 eliminates funding for the NDUS internal auditor program, except for \$300,000 for an "internal audit funding pool."

McEwen moved, Melicher seconded to approve the following:

Because of the passage of House Bill 1003, the Chancellor must issue notices terminating employment to eight attorneys, two legal support staff and three internal auditors on May 1, 2015, and the legislature has not provided sufficient funds to provide up to twelve months notice (pursuant to SBHE Policy 608.2); the State Board of Higher Education will need to declare a financial exigency in accordance with Policy 608.2(2) and is authorizing notice of intent to terminate employment on July 31, 2015.

McEwen and Reichert voted yes. Melicher, Morton, Shaft, Hjelmstad, Neset, and Ness voted no. The motion failed.

McEwen moved, Ness seconded, to approve the following motion:

Because of the passage of House Bill 1003, the Chancellor must issue notices terminating employment to eight attorneys, two legal support staff and three internal auditors on May 1, 2015, and the legislature has not provided sufficient funds to provide up to twelve months notice (pursuant to SBHE Policy 608.2); the State Board of Higher Education will need to declare a financial exigency in accordance with Policy 608.2(2) and is authorizing notice ~~intent~~ to terminate employment on July 31, 2015.

McEwen, Reichert, Melicher, Morton, Shaft, Hjelmstad, Neset, and Ness voted yes. The motion carried.

SBHE Academic and Student Affairs Committee

SBHE Academic and Student Affairs Committee Chair, Ms. Reichert, stated the committee recommends approval of the following:

Stage II - New Programs

- University of North Dakota's request for a new program: *Five-Year B.S.-M.S. Degree in Physics*, (CIP Code 40.0801), effective fall 2015.

Program Termination

- North Dakota State University's request for a program termination: *Physical Education Minor*, (CIP Code 13.1314), effective summer 2015.
- University of North Dakota's request for a program termination: *Bachelor of Fine Arts in Performance with Major in Theatre Arts*, (CIP Code 50.0501), effective summer 2015.

Tenure Recommendations

- [Tenure Recommendations](#)
- [Provisional Tenure Recommendations](#)

Shaft moved, Neset seconded, to approve SBHE Academic and Student Affairs Committee recommendations.

Shaft, Hjelmstad, Melicher, Ness, Reichert, McEwen, Morton, and Neset voted yes. The motion carried.

SBHE Budget and Finance Committee

SBHE Budget and Finance Committee Chair, Mr. Morton, stated the committee recommends approval of the following:

- I. Review and recommend SBHE **1.)** Authorize issuance of not to exceed \$4,000,000 Minot State University Facilities Revenue Refunding Bonds, Series 2015, for the purpose of refunding the Minot State University Student Services Facilities Revenue Bonds, Series 2006; **2.)** Authorize the MiSU President and/or Vice President for Administration and Finance to approve the sale of the bonds provided that the true interest rate not exceed 4.0% provided the present value of the debt service savings is not less than 2%. The approximate final date upon which the principal amount of the obligation will mature or become payable is August 1, 2029; and, **3.)** Appoint the firm of Arntson Stewart Wegner PC as the bond counsel and Public Financial Management, Inc. as the financial advisor.

- II. Authorize NDSU to proceed with the construction of the Wallman Wellness Center Aquatics Addition Project at an estimated cost of \$11,000,000, with \$10,000,000 funded from revenue bond proceeds and \$1,000,000 from local funds, subject to appropriate legislative approval, including the following:
 - a) The issuance of not to exceed \$10,000,000 State Board of Higher Education of the State of North Dakota, North Dakota State University, Housing and Auxiliary Facilities Revenue Bonds, Series 2015B, for the purpose of financing the construction of an Aquatic Center on the North Dakota State University campus as per N.D.C.C. Chapter 15-55;
 - b) Authorize the execution of a Supplemental Indenture of Trust, Bond Purchase Agreement and Related Documents;
 - c) Authorize the NDSU President and Vice President for Finance and Administration to approve the sale of the bonds (Series 2015B) at a price not less than 98% of the principal amount thereof and at a true interest rate not exceeding 5.00%. The approximate final date upon which the principal amount of the obligation will mature or become payable is April 1, 2036; and
 - d) Appoint the firm of Arntson Stewart Wegner PC as the bond counsel and Fieldman, Rolapp & Associates (Independent Financial Advisors to Government) as the financial advisor.

Other Board Consent

- I. Authorize NDSU to proceed with the Renovation of Architecture and Landscape Architecture Building at an estimated cost of \$2,500,000 funded from FY14 appropriated capital project designated reserves per SBHE policy 810.1; further, authorize NDSU to rename the building from Architecture and Landscape Architecture to Engineering.
- II. Authorize NDSU to proceed with the Katherine Kilbourne Burgum (KKB) Family Life Center Footing Stabilization Project at an estimated cost of \$750,000 funded from 2013-15 extra-ordinary repairs funds (\$300,000) and 2013-15 appropriated operations funding (\$450,000); furthermore, authorize the transfer of \$450,000 from 2013-15 operations to capital assets line item per SB2003 (2013), Section 25.
- III. Authorize NDSU to proceed with the Memorial Union Dining Center and Upper Floor Fit Up project at an estimated cost of \$1,450,000, funded from Dining Services (\$1,060,000) and Memorial Union (\$390,000) Repair and Replacement local funds.
- IV. Authorize an increase for the NDSU AES Research Greenhouse from \$32,930,984 to \$33,044,068, an increase of \$113,084 from private funds.
- V. Authorize NDSU to proceed with the construction of a Campus-Wide Retention Pond at an estimated cost of \$380,000 funded from 2013-15 appropriated operations funding; furthermore, authorize the transfer of \$380,000 from 2013-15 operations to capital assets line item per SB2003 (2013), Section 25.

- VI. Authorize NDSU to proceed with the Library Entryway/Circulation/Deferred Maintenance Renovation project at an estimated cost of \$1,400,000 to be funded from 2013-15 appropriated operations funding; furthermore, authorize the transfer of \$1,400,000 from 2013-15 operations to capital assets line item per SB2003 (2013), Section 35.
- VII. Approve proposed change to the Investment Policy Statement to change staff membership on the Retirement Plan Oversight Committee to include two staff representatives from the 1000&3000 bands.

Shaft moved, Melicher seconded, to approve I and II, SBHE Budget and Finance Committee recommendations, and other Board consent items, I through VII.

Shaft, Hjelmstad, Melicher, Ness, Reichert, McEwen, Morton, and Neset voted yes. The motion carried.

SBHE Audit Committee Recommendations

Chair Neset stated the SBHE Audit Committee met with the State Auditor's office to review the NDUS waivers and stipends performance audit report. The Audit Committee worked with the NDUS system office to complete the responses to the report.

Board Policy

Ms. Glatt indicated the proposed revisions to the [employee moving expense policy 806.3](#) provide, at the discretion of the institution, reimbursement or a lump-sum payment to the employee for moving expenses for new hires.

McEwen moved, Neset seconded, to approve the first reading of proposed revisions to policy 806.3.

Shaft, Hjelmstad, Melicher, Ness, Reichert, McEwen, Morton, and Neset voted yes. The motion carried.

Mr. Sagsveen stated the proposed amendments to [policy 918 regarding alcoholic beverages](#) would generally prohibit alcoholic beverages on a campus, unless specifically authorized by the president.

McEwen moved, Ness seconded, to approve the first reading of proposed revisions to the policy 918.

Shaft, Hjelmstad, Melicher, Ness, Reichert, McEwen, Morton, and Neset voted yes. The motion carried.

Ms. Glatt gave an overview of on the background to the [employee tuition waiver](#). She stated that in June 2014, the SBHE adopted changes to expand the employee waiver to provide for an additional employer assistance payment for on-line and other distance delivery courses, with a minimum of 50% of tuition paid by the employing campus and the balance paid by the employee. Differences between campuses under the waiver and assistance provisions and policy definitions created confusion and administrative challenges. Revisions are intended to standardize the benefit across the NDUS, simplify current practice for ease of employee understanding and campus administration, while maintaining, to the extent possible, current employee benefits. Based on current usage patterns, almost 90% of the employees would see no change or an increase in benefit, and about 10% would experience a reduction in benefits under the proposed policy change.

Currently proposed changes include:

- A policy that is based on where, not how course is offered. If a course is offered by the employing institution, the employee receives 100% tuition waiver. If the employee takes a

course at another NDUS institution, payment exchanges hands with 50% of tuition paid by the employer and the balance paid by the employee.

- Establishes standard eligibility criteria across the NDUS.
- Provides a standard application/approval form for use by all NDUS campuses.
- Provisions would be standardized across all campuses, so nothing more or less than the prescribed policy and procedure provisions can be provided to employees, creating a standardized benefit across the NDUS.

Melicher moved, Reichert seconded to approve recommended changes to SBHE policy 820.1, with an effective date of June 1, 2015.

Shaft, Hjelmstad, Melicher, Ness, Reichert, McEwen, Morton, and Neset voted yes. The motion carried.

Ms. Glatt explained that [policy 907, related to building plaques](#) would require all newly constructed or acquired buildings, newly constructed major building additions over 1,000 sq. feet, and newly constructed major public improvements costing in excess of \$500,000 to be memorialized with a plaque. The plaque shall include the names of the SBHE members and other dignitaries and officials who were in office on the date the SBHE provided authorization to proceed with the project.

Ness moved, Neset seconded, to approve proposed new SBHE policy 907 related to building plaques.

Mr. Shaft noted that there would be a minor amendment to policy 907 before it comes back to the Board for final adoption. He will work with Mr. Tonder on that change.

Shaft, Hjelmstad, Melicher, Ness, Reichert, McEwen, Morton, and Neset voted yes. The motion carried.

Ms. Goulet stated the amendment to [policy 840](#) would allow departments and instructors who seek to use or purchase small cost software and freeware for educational purposes would be able to do so on a timelier basis, and not have their planned use delayed by the requirement that each contract document be reviewed by legal counsel. Currently, contracts entered into by institutions and the system office must be reviewed by legal counsel or other qualified institution employee, with limited exceptions. The exceptions are “standard form contracts, including employment contracts, purchase orders and other standard forms, and documents that are substantially equivalent to documents previously reviewed and approved by legal counsel.” The proposed amendments to policy 840 would allow additional exceptions to contract review by legal counsel, to include template contracts reviewed in last two years and contract documents relating to the purchase or use of software for less than \$2,500, including freeware, provided that when entering into such agreements, the institutions and system office follow the procedures, which are also directed to be established by this policy.

Ness moved, Morton seconded, to amend SBHE policy 840, regarding contract review.

Shaft, Hjelmstad, Melicher, Ness, Reichert, McEwen, Morton, and Neset voted yes. The motion carried.

McEwen moved to adjourn.

The meeting adjourned at 4:05 p.m. CDT.

Approved on June 24, 2015, by the State Board of Higher Education.