NORTH DAKOTA UNIVERSITY SYSTEM
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North Dakota State Board of Higher Education
February 23, 2023, Meeting Minutes

The State Board of Higher Education met Thursday, February 23, 2023, at 8:30 a.m. CT by Teams Live.

SBHE Members participating:
- Dr. Casey Ryan, Chair
- Dr. John Warford
- Mr. Nick Hacker
- Mr. Jeffry Volk
- Mr. Michael Linnell, Staff Adviser
- Mr. Tim Mihalick, Vice Chair
- Ms. Sadie Hanson
- Ms. Danita Bye
- Mr. Kevin Black
- Dr. Lisa Montplaisir, Faculty Adviser

Institution Representatives Present:
- Dr. Doug Jensen, President, BSC
- Dr. Carmen Simone Dean, DCB
- Mr. Steve Easton, J.D., President, DSU
- Dr. Doug Darling, LRSC
- Dr. Brian Van Horn, President, MaSU
- Dr. Steve Shirley, President, MiSU
- Dr. Rod Flanigan, NDSCS
- Dr. David Cook, President, NDSU
- Dr. Andy Armacost, President, UND
- Dr. Alan LaFave, President, VCSU
- Dr. Bernell Hirning, President, WSC

NDUS Senior Staff Participating:
- Chancellor Mark Hagerott, NDUS
- Ms. Lisa Johnson, NDUS
- Mr. Darin King, CTS
- Ms. Terry Meyer, NDUS
- Mr. Jerry Rostad, NDUS
- Mr. David Krebsbach, NDUS
- Dr. Jen Weber, NDUS
- Ms. Tammy Dolan, NDUS
- Ms. Jane Grinde, NDUS
- Mr. Chris Pieske, NDUS
- Ms. Meredith Larson, Attorney

1. **Agenda**

Bye moved, Warford seconded, to approve the agenda. Warford, Hanson, Volk, Mihalick, Bye, Hacker, Black, and Ryan voted yes. The motion passed.

 # Board Consent and Minutes

Bye moved, Warford seconded, to approve the Board Consent items and approval of the January 26, 2023, Meeting Minutes under #2, #3 and #4.
Hanson, Volk, Mihalick, Bye, Hacker, Black, Warford, and Ryan voted yes. The motion passed.

2 January 26, 2023, Meeting Minutes.

3. Authorize UND to proceed with building documentation, demolition and associated site restoration of the Conference Center located at 2724 University Avenue (with an insurable value over $250,000).

4. Authorize NDSU to proceed with the Pavek Hall Renovations project at an estimated cost of $14,500,000 to be funded from local auxiliary reserve funds, capital building tier matching fund, and appropriated operating funds.

 # Board Action

5. Mission Statements – Vice Chancellor Rostad

(a) BSC: President Jensen stated that the Mission Statement has been revised to reflect the poly-tech mission and reflects that the college will focus on student success including four (4) new goals: (i) Student success; (ii) Fiscal stability; (iii) Linking talent with opportunity; (iv) Communication.
(b) NDSCS: President Flanigan reported this is not a new or revised Mission Statement, rather he was unable to find documentation that the SBHE had approved its Mission Statement. He stated the current version of the NDSCS Mission Statement has been in place for at least ten (10) years.
(c) NDSU: President Cook stated the Mission Statement is solid and was vetted during the most recent strategic process. He does not anticipate any changes within the next couple of years.
(d) UND: President Armacost stated UND underwent an 11-month review of their Strategic Plan, and the Mission Statement was part of that review.

Mr. Rostad stated that Mission Statements have been updated by BSC, NDSCS, NDSU and UND. These have been updated pursuant to their Strategic Planning process. The SBHE policy states that the Board must approve Mission Statements when updated. These updated Mission Statements were reviewed and recommended for approval by the Research and Governance Committee.

Black moved, Warford seconded, to approve the Mission Statements for BSC, NDSCS, NDSU, and UND. Hanson, Bye, Hacker, Warford, Black, Volk, Mihalick, and Ryan voted yes. The motion passed.

6. SBHE Policy 406.1 Academic Calendars / Renumber to SBHE Policy 406 Academic Calendars – Vice Chancellor Johnson.

Ms. Johnson explained that this request is to renumber this policy to offer better consistency with the naming and numbering of the SBHE policies. The renumbered SBHE Policy 406 Academic Calendars are published four (4) years in advance in collaboration with verbiage from the NDCC for titles utilized throughout. Dr. Warford said all campuses were invited to provide input wherein he reported that no recommendations were received from any of them.

Bye moved, Warford seconded, to approve the request that SBHE Policy 406.1 Academic Calendars / to be renumbered to SBHE Policy 406 Academic Calendars First Read, and to waive the Second Read. Black, Volk, Mihalick, Bye, Warford, Hacker, Hanson, and Ryan voted yes. The motion passed.

7. SBHE Policy 402.1.2 Student Placement into College Courses / Renumber and Rename to SBHE Policy 413 Course Placement – Vice Chancellor Johnson.

Ms. Johnson explained this request is being presented under the same circumstances as the previous policy wherein it will be renumbered and renamed SBHE Policy 413 Course Placement. The previous discussion included a requirement that students submit standardized ACT or SAT test scores for admission. Because they are not collected on admission, students will either be required to take a placement test or show readiness for English and Math, there is no longer a requirement for those standardized test scores solely for placement. There is an entire policy on procedures campuses use for placement into courses, entry level for English and Math.

Warford moved, Volk seconded, to approve the request that SBHE Policy 402.1.2 Student Placement into College Courses / Renumber and Rename to SBHE Policy 413 Course Placement First Read, and to waive the Second Read. Volk, Bye, Black, Warford, Mihalick, Hanson, Hacker, and Ryan voted yes. The motion passed.

8. Legislative Update – Chancellor Hagerott/Vice Chancellors Johnson, King, Krebsbach, and Rostad/Ms. Dolan.

Chancellor Hagerott reported that the legislature has favored several of the bills related to education.

a. Financial Update by Mr. David Krebsbach.

Mr. Krebsbach referred to the attachment provided to members with the agenda documentation before the meeting on updates to the appropriations process of the legislative process. They have approved most of the initiatives requested except for about three (3) requests.

- **<-$2.2M> - Funding Formula Adjustments:**
  - <-$9.3M> SCH Production changes
  - $2.2M – (NDSU $2.1M; LRSC- $0.2M) - **96% Minimum Amount Payable** restored.
  - $4.8M - Funding Formula **CTE weighting factor** adjusted to 5.0 for all credits(was 3 lower div. and 5 for upper div.)dental hygienist courses be transferred to the CTE cluster
- **$98M - Compensation Package:**
  - $81.2M **- Salary increases of 4%/4%** with full state coverage of health insurance increased cost. Tuition freeze for the next biennium , State funding provided for compensation increases relative to tuition.
  - $16.8M **– Salary Equity** program(OMB bill- SB2015)
- **$614M - Capital Building; Deferred Maintenance and Network Projects:**
  - **$29M Capital building funds**; Tier I - 1:1 match all institutions except UND/NDSU; Academic buildings and student housing projects eligible.
  - **$20.1M - Capital project inflationary increases** – BSC-$10M polytechnic bldg.; DSU Pulver hall - $2.6M; DSU $1M-Digitization expenses; Bismarck Gateway to Science-$5M; Minot children's science center-$1M; Fort Abraham Lincoln Foundation Heritage River Landing- $500,000.
  - **Capital projects-Future projects** – 5% required match all institutions except UND/NDSU which require a 30% match. No new building requests for 2025-27 in 2025 legislature from SBHE.
  - **$425.1M - Capital Projects funded -** General Funds $343.8M; $81M Spec. funds. Includes 13 projects.
  - **$45M UND – National Security Initiative** – Autonomous systems test facility-Cybersecurity research infrastructure and satellite & space debris tracking equipment.
  - **$6.4M –Research Network Infrastructure:** UND/NDSU $3.2M. Northern Tier Network.
  - **$88.**4M Other Funded Capital Project Authority – UND/NDSU/VCSU/WSC/MiSU local funded projects requests.
- **$36M - Challenge Grants** – 3 times current allocations with removal of UND Law School $250,000, to be included as part of UND's allocation; and adds NDSU- SBARE for $4M; SMHS $4M. NDSU/UND -$5M; BSC/MiSU/NDSCS/-$3M; DSU/MaSU/VCSU-$2M; DCB/LRSC/WSC-$1M; Removes all restrictions on uses of the funds(athletics/Capital projects).
- **$42.8M - Student Financial Aid:**
  - $5.1M - Energy scholarships
  - $15M - from BND profits for Career Builders
  - $12M – State Financial Aid Grant – Award increase from $1,100/sem. To $1,650/sem.
  - $3.3M - $1M - ND AC/CTE Scholarship funding shortage.
    - $0.4M – Apprenticeships added(HB1382).
  - $1M – increase in Tribal College Grants to $2M.
  - $0.4M – Native American Scholarships – Increased to $1M appropriation.

- $4.5M - ($250K/institution) for support of single mothers for costs of on-campus room and board and on-campus day care for children of eligible students.
- $1.5M - from BND profits for Dual Credit scholarships.

- **$14.8M - Workforce Program Funding to Institutions:**
  - $10M - Workforce Education Innovation grant program
  - $4.8M to NDSU as one time funding for creating and expanding programs and enrollment initiatives to address workforce needs.

- **$11.7M - Other Bill Provisions:**
  - $4.5M – Core Technology Services Security operations center & software increases.
  - $2.0M – Financial Aid System – Licensing, maintenance & implementation($125,000 towards one FTE).
  - $3.6M – Behavioral Health initiative(12FTE's, 1 PTE, 4 interns).
  - $387,000 Forest Service initiatives(Fire protection/Recreation enhancement).
  - $450,000 Dakota Digital Academy.
  - $177,000 Veterans outreach total funding of $455,000.
  - $143,625 Capitol building rent.
  - $200,000 Forest Service recreation enhancement
  - $187,000 Forest Service Cooperative Fire Protection
  - <-$367,000> transfer to NDSU from System Office from carryover funds for cost of severance package to previous president.

HB1003 - Reports and other directives:

- **Section 18:** Chancellor to provide annual report to budget section on higher education trends.
- **Section 19:** Cost of any severance agreement approved by SBHE must be paid from the NDUSO budget and requires Emergency Commission and Budget Section approval.
- **Section 20:** Academic program requests by institutions require a 30 day or less approval by SBHE.
- **Section 21:** Presidential candidates must be provided disclosure of financial condition of the institution.
- **Section 22**: The president of an institution under the control of the SBHE has the authority to adopt policies, procedures, and directives for the institution, with input but not control from faculty and others through shared governance, subject to the authority of the commissioner of higher education and the SBHE to overturn or ament the president's policies, procedures, and directives.
- **Section 36:** DSU is no longer required to establish an endowment for the digitization of documents relating to Theodore Roosevelt.

Additional Legislative Considerations:

HB1003 - Partially funded budget requests:

- (-$3.6M) 98% Minimum Amount Payable request at $5.8M vs 96% at $2.2M;$2.8-NDSU; $0.5M-NDSCS; $0.3M-LRSC.
- (-$14M)- $24M – Workforce Education Innovation Grants request; $10M funded.
- (-$4.9M) - $10M Energy Workforce Scholarships request, funded at $5.1M.

HB1003 - NDUS budget requests not funded:

- (-$40.9M) – 7.5% inflationary increase on funding formula not funded.
- (-$16.5M) -Adds MiSU-Hartnett Hall $4M)/UND-Merrifield Hall $12.5M to inflationary increases on capital projects.

- (-$900,000) Systemwide Marketing program.
- (-$425,000) – Assistant Vice Chancellor for Research and Workforce.

Other bills and considerations:

- Salary Equity program (OMB SB2015).
- PERS Defined Benefit plan closure bills(SB1040).
- HB1003 Tuition freeze limitation.

State Board of Agricultural Research and Extension
Engrossed HB1020 - Legislative Update 2-23-2023

	General Funds	Special & Federal Funds	Totals
2021-23 Base Funds	$ 109,568,287	$ 132,957,318	$ 242,525,605
Capital Projects -SIIF funds*		104,657,600	104,657,600
HB1020 Additions	15,932,245	3,716,109	19,648,354
Toal Engrossed HB1020	$ 125,500,532	$ 241,331,027	$ 366,831,559
	*Includes $97M Waldron Hall project		

- **$12.3M - Compensation Package across all SBARE Entities: ($7.1M General funds; $3.6M special funds; $1.6M Federal funds).**
  - **$12.3M - Salary increases of 4%/4%**, includes health insurance increased cost.
  - **Salary Equity**- (OMB SB2015).
- **$1.1M- UGPTI –**
  - **$732,600($300,000 General funds; $432,600 special funds); Freight Transportation and Logistics Biennial Report.**
  - **$398,450- Carbon Dioxide Study.**
- **$2.1M(GF) –Extension Service - Initiatives:**
  - **$700,000- Cropping System Initiative-**
  - **$500,000 – Livestock Development Initiative-**
  - **$250,000– Farm and Ranch Health & Safety Initiative**-
  - **$320,000- 4-H Initiative-**
  - **$300,000– Extension & State Soil Conservation Committee Operating Support**–
- **$106.6M - Main Research Center - Initiatives**– ($4.7M-Genearal funds; $99.4M-SIIF; $0.9M Special funds; $1M Federal funds):
  - **$469,000(GF)- Big Data Initiative**.
  - **$262,000(GF)- Bee and Apiary Research**.
  - **$250,000(GF)**- **Spud Research Fast Track.**
  - **$600,000(GF)- Precision Agricultural.**
  - $**560,000(GF)- Operating funds**- Precision Ag, Graduate Research Assistants, Oakes irrigation research site.
  - **$1.2M(GF) – Nesson Valley irrigation research site project**.
  - **$2.9M($2M-GF; $0.9M SF) – Branch research center capital project inflation.**
  - **$1.9M(SIIF) – Storage sheds.**
  - **$0.5M(SIIF) - Deferred Maintenance.**
  - **$97M(SIIF) – Waldron Hall replacement project.**
  - **$1M(Federal funds) – Hettinger Research Center land purchase.**
- **$250,000(GF) – Branch Research Centers:**
  - $250,000- Technician FTE position.
- **$3.9M (SIIF)– Northern Crops Institute:**

- **$3.2M – Feed production center facility upgrade.**
- **$0.7M – Pellet Mill.**

The presidents from UND, MaSU and NDSCS responded to the above report that included favorable statements for the proposed tuition freeze. BSC President Jensen commented that when tuition freeze discussions are held, it is assumed all North Dakota colleges are at the same tuition level wherein the tuition freeze impacts the colleges equally. BSC has the third lowest tuition in the state at $175. As operational costs have increased, they have had to manage tuition increases to help offset the operational costs. He stated BSC has concerns that a tuition freeze will impact its operations and deliverables in terms of costs incurred with limited funds.

Ms. Dolan clarified that the tuition freeze period would include the semesters of the fall of 2023 and the fall of 2024 and then the legislative session would address the fall of 2025, if needed. There is at least one carve out in the tuition freeze bill that would allow for increases for programs that have differential tuition rates wherein they still would be able to increase tuition. Mr. Hacker stated that in reading Section 44 of the bill, the cap or limitation stops at the end of 2024-2025 academic year which would be the spring of 2025, not the fall of 2025. Regarding differential tuition, it allows for a 1% increase. He expressed concern that the legislature would impose limitations on tuition. He would request the presidents during the cross over break to review Section 44 and contemplate how this would be put into practice and then provide feedback to Mr. Krebsbach or Ms. Dolan so the Board can be prepared with testimony to this type of limitation they are putting in place. The carve outs have limitations.

Mr. Volk expressed concern that the tuition freeze will not impact past the (next) biennium. He encouraged the presidents to provide comment on how a tuition freeze would affect them, if at all.

MaSU President Van Horn stated that he appreciated the fact that the Board is conscientious that tuition freeze can produce unintended consequences explaining that MaSU's budget consists of state appropriations, tuition, and "other." The "other" at 34.5% is made up of other funds therefore with tuition freezes, that will limit where MaSU will get that money and that is a major concern. BSC President Jensen concurred with Mr. Hacker about the timelines. He stated that they have not set the fall 2024 tuition rates thus BSC would have the ability to make tuition adjustments leading up to the fall semester in the scenario (regarding setting tuition rates for fall 2025). He said a tuition freeze will impact BSC academics over the next two (2) years; however, he stated that BSC will probably not incur as much impact as some colleges in eastern North Dakota. DSU President Easton stated that DSU is the only campus in the current biennium that voluntarily adopted a tuition freeze. That was put in place after a substantial budget cut. He supports a tuition freeze as it represents its mission to provide a product at the lowest possible price. He voiced concern that during the current biennium the total cost of inflation will probably end up being between 16% to 18%, noting that the legislature has helped significantly on the salary side. Approximately 3% to 34% of DSU budget is non-compensation. He cautioned that it is very difficult to make a tuition freeze work since tuition cannot be used to pay for that portion of an increase. The 7.5% inflationary increase - he would encourage the Board regarding the funding formular that was not given on the House side. He does not see how the systems will be able to make a tuition freeze work without looking at some program cuts. Unless there is a large reserve or large foundation financing of that 16% to 18% plus it will probably increase into the next biennium, there may be some tough decisions that will have to be made. UND President Armacost concurred with Presidents Easton and Van Horn that one third of the benefits come out of the general fund, one-third out of tuition and one-third from "other." The "other" can include entities such as auxiliaries, programs, foundations, or grants. For the first time since the funding formula has been in place the House agreed

to fund the tuition piece and never before has that been done. When talking about a 6% & 4% pay raise or merit increase and having that tuition piece paid for was a considerable chunk of money. In addressing Mr. Hacker's comment whether this is enough with freezing tuition, the tradeoff was that the legislature offered in exchange for that coverage of the tuition piece of the merit increases – there would be a tuition freeze. The positive side is that there are controls available within the "other" category namely auxiliaries and a latitude to increase housing and meal plans. There may be a possibility of adjusting other fee-based salaries to accommodate the increased salaries. The legislature has indicated that although there may be a freeze on tuition rates and fees, there will need to be a flexible way to adjust fees in some areas.

Mr. Volk commented that regarding the 96% payable it appears that NDSCS was dropped off the list of receiving that benefit and there was a change in the formula for some weight of credits. He inquired if it is safe to assume because the credit weighting was changed, that NDSCS was dropped from the 96% minimum payable column? Mr. Krebsbach confirmed that is correct and with the change of the weighting factors in the funding formula it added about $4.8 million to the funding formula therefore the majority went to NDSCS which is a positive, noting that will go forward into the next biennium. President Flanigan stated that he worked hard to get the funding formula changed that pushed them over the 4% threshold and that it will not help much this year, but it will in the future. Mr. Volk had questions on the equity program, and Mr. Krebsbach replied that the equity program being considered is covered in HB2015, the OMB bill. There has not been much detail provided on that bill; however, it is part of the funding formula. Mr. Volk asked about items on the list for the Capital Program not on the lists reviewed for this biennium including projects not vetted by the Board. He requested that when these projects move forward, that an education be provided to the Board outlining the needs for those projects on the respective campuses. Chancellor Hagerott said there is a provision in HB1003 to limit review of new academic programs to speed them through.

Chair Ryan asked if the legislature could freeze (actions) going into the 2025-2027 session? Chancellor Hagerott gave an example that the legislature in Nebraska asked if their (University System) could take a longer approach to buildings. They implemented a bonding system over an almost ten (10) year period barring any emergency situation in attempting to get more predictability. In that same respect, North Dakota is attempting to look at a 4-year plan.

LRSC President Darling stated LRSC did not submit a buildings capital project this biennium, however his intent was to submit one for the next biennium. He asked if they are precluded from submitting one for the next biennium? Chancellor Hagerott replied that can be addressed during the crossover addendum.

b. Bill Summary Update

Ms. Dolan stated that weekly updates are provided to the Board members of all the bills the NDUS office follows. There are still about 128 bills that are alive, wherein 32 have failed or have been withdrawn. Included in the agenda documentation is a 7-page report that shows the Top 34 bills.

Ms. Dolan reported on the following Bills:

- There are two bills that affect the retirement system offered to State Employees through PERS wherein they do not affect most of the higher ed employees since they are on a separate retirement plan. This will affect about 2,400 employees in higher ed. They are looking at closing the defined benefit plan and there are some funding transfers to un-fund liability that exists for the current retirement plan. SB2239 would keep it open and provide for those transfers. NDUS is following the bill because both contain increased contributions by the employer and the

employee contribution. Those are being monitored because they will have a fiscal impact on the campuses. This is something NDUS will continue paying attention to throughout the remainder of the session.

- HB1226 was requested by the campuses to be submitted by NDUS and that would provide confidentiality for the compliance officers working papers went through the first session (90-0) without any problems.
- HB1379 requested by the Research and Governance Committee lays out a distribution for Legacy Fund earnings. The bill passed 77-16. One thing included in that bill is a research fund. One of the buckets that would receive Legacy Fund earnings is a diversification research fund that would receive up to $10 million per biennium for our institutions wherein 90% would go to NDSU and UND and the other 10% would go to the other institutions for research projects.
- SB2288 is a bill that would help nursing programs and is similar to the Challenge Grants.

Vice-Chancellor Johnson reported on the following Bills:

- HB1200 is a vaccination bill that campuses cannot require Covid 19 vaccine for enrollment purposes or to attend classes and it prevents institutions from promoting Covid 19 vaccinations.
- HB1205 prohibits public libraries from maintaining or promoting certain books. There are some gray areas about public universities being wide open to the public (cannot always check out books) being different than a community library that is open to everyone. NDUS opposed this bill as did many librarians across the state.
- HB1241 is the Workforce Education Innovation program that would not require a match. NDUS requested $24 million for campuses to start up new programs and to hire new faculty. That has been downsized to $10 million and moved into the 1003 system budget.
- HB1341 is a study on the dangers and restrictions of carrying firearms and weapons. HB1404 failed that would allow individuals to carry concealed on the campuses.
- HB1446 is a tenured faculty pilot program. It passed the chambers. The NDUS office and Chancellor spoke in opposition but requested this be under the purview of the SBHE. Chancellor Hagerott said he was initially neutral, and his position was to turn it over to the SBHE. There were several amendments added and/or removed to this bill.
- HB1489 College sports teams' designation of male and female. NDUS opposed this bill as it would have been difficult to comply with.
- SB2197 is to re-energize North Dakota and is a $5 million scholarship appropriation for the oil and gas industry for individuals who have worked in the industry for at least 12 months.
- SB2231 along with other bills regarding gender and pronoun use. NDUS is neutral on this bill.
- SB2247 is one of which the SBHE has authority having to do with curriculum at the institutions.
- SB2274 is a vaccine bill that prohibited vaccination based on vaccine status or the collection of vaccine data wherein it has been since clarified that it is a Covid 19 vaccination or those that are under emergency use that the universities could not require or ask for documentation.
- SB2343 relates to information access for board members and open records for confidential hearing records. NDUS opposed this bill.

Vice-Chancellor King reported on IT Issues:

- HB1528 is a bill in response to the email issue that happened in the Attorney General's office. This bill tightens up retention code however NDUS has similar language already in place, so it does not affect NDUS.
- HB1021 is the ND IT bill for the state technology group. The federal grant that has been funding the statewide longitudinal system for the last 10 years is gone.

Ms. Bye asked about HB 1489 the NDUS opposed, and that Ms. Johnson agreed with some changes made. Does that change the NDUS from being opposed to neutral? Ms. Johnson replied that the removal of the language of not hosting events for transgender – the greatest concern would be if there was a state-wide event for high school activities association coming into the colleges and universities – how would one document the gender of all the participants to make sure that one did not violate that portion of the statute was untenable.

Ms. Bye stated that the position of the North Dakota State Board of Higher Education (SBHE) is that they are the governing body for the North Dakota University System (NDUS). The SBHE was created to control and administer those institutions within the NDUS. The power to manage and control the institutions is vested in the SBHE through both statutes and the North Dakota Constitution.

Certain legislative bills have been introduced that would impact the constitutional autonomy of the SBHE and would infringe upon that exclusive authority to manage its institutions. Further, the bills encroach upon the NDUS' internal governance policies and affect the SBHE's ability to make decisions related to funding, academic standards, and personnel matters. These bills would create confusion and inconsistency in the governance of the state's public higher education board.

Ms. Bye moved the SBHE oppose House Bill 1446, Senate Bills 2247 and 2343, and Sections 19 & 20 of House Bill 1003 because the subject matter falls under the constitutional jurisdiction of the SBHE and its internal governance policies.

- HB1446 Post-tenure Review (to be addressed separately).
- SB2247 Specified concepts that may not be taught on campuses.
- SB2343 SBHE communications & information access policy; Access to closed, exempt, confidential records from executive sessions (to be addressed separately).
- HB1003 (19) Requires Emergency Commission & Budget Section approval for presidential severance agreements.
- HB1003 (20) Limitations on the new & expanded academic program approval process.

Mr. Mihalick seconded the motion.

Mr. Volk stated he is uncomfortable voting for all five (5) at the same time. Some of them bring forward a different reason for discussion. Regarding SB2343, he does not think that infringes on any constitutional measures. HB1446, SB2247, HB1003(19) and HB1003(20) he can understand.

Mr. Volk moved to amend the original motion that each bill be voted on independently.

Mr. Hacker recommended a better approach to the amended motion would be to divide the question and pull out the bills that Mr. Volk mentioned versus attempting to take them separately.

Mr. Hacker moved to amend the original motion to separately discuss SB2343 with the addition of separating out HB1446, also for a separate discussion. Mr. Black seconded the motion to amend.

Mr. Volk withdrew his motion to amend the original motion that each bill be voted on independently.

Regarding the Amended Motion, Ms. Bye asked if the amendment means SB2343 would be a separate discussion from HB1446. Chair Ryan replied it is his understanding they will be addressed separately. Mr. Hacker concurred that they would be discussed separately. There will be three (3) separate votes, one on SB2343, one on HB1446 and one on the others (SB2247 and HB1003 Sections 19 and 20).

Chair Ryan called for a roll call vote on the Motion to Amend:
Bye, Volk, Hanson, Black, Warford, Hacker, Mihalick, and Chair Ryan voted yes. The Motion to Amend passed.

Chair Ryan called for discussion on the Amended Motion addressing SB2247, HB1003, Sections 19 & 20.
Senate Bill 2247 Specified concepts that may not be taught on campuses.
House Bill 1003 (19) Requires Emergency Commission & Budget Section approval for presidential severance agreements.
House Bill 1003 (20) Limitations on the new & expanded academic program approval process.

Mr. Black stated that HB1003, Sections 19 and 20, are within the purview and autonomy of the SBHE.

Regarding SB2247, it is layered. Autonomy is not absolute. There are portions of SB2247 that he believes the legislature has some jurisdiction on this bill and this is an important one for the SBHE to be involved in. The first part of this bill is to protect freedom of speech. It is saying we will not penalize anyone for supporting or opposing a specified topic. It also is not mandating what can or cannot be taught, rather it is saying we cannot mandate non-credit training. He stated the Board should oversee this noting that it falls more on the SBHE side than the legislature side.

Mr. Hacker clarified that when he divided the question it left the motion intact, it just said the Board would vote on them in three different motions. As soon as discussion is over, the chair can call the roll on SB2247 and HB1003 Sections 19 and 20.

Chair Ryan called for a roll call vote.
Hanson, Bye, Warford, Volk, Black, Mihalick, Hacker, Hanson, and Chair Ryan voted yes. The motion passed.

House Bill 1446 Post-Tenure Review
Mr. Hacker clarified that he asked for HB1446 to be divided. Although the bill is not in great shape now, he believes this is a broader topic. This is something the Board should work through, and policy makers should be involved in an interim study to determine what should be done from the standpoint related to tenure. The reason is because he believes in the state's right to work laws. He is not arguing against tenure. The point is that he thinks there should be more engagement about this topic than purely just the Board. He does not support the Board saying “no” to this conversation and he would be hopeful that the Board would approach the legislature to see if a joint study could be done in the interim and then come up with the right solutions at the next session or within Board policy in the interim. Mr. Black stated he believes it would be most appropriate to caveat this motion through an amendment that says the SBHE opposes the bill on its face, however, the Board requests the Senate to amend this bill to a joint study with the SBHE. Chair Ryan recommended using the expertise of the individuals who are a part of the Board system, in particular, the faculty. Discussion must happen within the Board system to assure everyone agrees. He believes the Board has a key role to play in this and it relates to what the Board is charged with doing. A concern he brought forward is the tenure process and if it is being followed uniformly throughout the eleven (11) institutions. That needs to be addressed.

Dr. Montplaisir stated that Chair Ryan just explained what the crux of what some of the conversations with CCF is. The CCF met yesterday and what was discussed was there is a process laid out as to what administration and what faculty expectations are as it seems there is a disconnect in communication as the process flows through. Ms. Johnson stated that questions came up in testimony through an open records request about how many individuals are terminated and how many are on improvement plans. The numbers were low because most people will leave or resign before it becomes a termination or force to leave issue.

Hacker moved to amend Member Bye's Motion to Oppose HB1446 and to additionally request a mandatory joint study with the SBHE and the legislature during the interim on tenure. Warford seconded the motion to Amend Member Bye's Motion to Oppose HB 1446.

Chair Ryan repeated: The original motion by Ms. Bye was to oppose HB1446. A yes vote would pass the motion she made, so the amendment is a request to mandate a joint study with the legislature during the interim. Input will be requested from integral groups and faculty. The SBHE will lead the study.

Chair Ryan called for a roll call vote on the Amended Motion to Oppose HB1446 with a request for a study.
Hacker, Mihalick, Bye, Volk, Warford, Hanson, Black, and Chair Ryan voted yes. The motion passed.

Chair Ryan called for a roll call vote on the Amended Motion pertaining to HB1446.
Warford, Hacker, Black, Mihalick, Volk, Hanson, Bye, and Chair Ryan voted yes. The Amended motion passed.

Senate Bill 2343
SBHE communications & information access policy; Access to closed, exempt, confidential records from executive sessions (to be addressed separately).

Mr. Volk said the Board has a policy addressing this that was adopted but opposed it due to lack of transparency and accountability. He is working with the sponsors of the bill to make some amendments. He requested the Board take a neutral stand and let the legislature determine what state policy should be for Boards across the state for accessing information for Board members.

Chair Ryan commented that in the minutes of September 30, 2021, a motion was made by Member Volk to allow him to go back into the previous records of closed meetings and it was seconded appropriately. The motion failed by a vote of 1/7. The best group to review SB2343 is the State Board of Higher Education because this is the group that knows what is going on. He recommended opposing SB2343.

Chair Ryan asked for a roll call vote (opposing) SB2343.

Mihalick, Warford, Hanson, Hacker, Bye, and Chair Ryan voted yes. Black and Volk voted no.
The motion passed by a vote of 6/2.

SBHE Committee Reports/Updates/Discussion

Chancellor Hagerott said that if the Board wishes to call a special meeting during the legislative session, he encouraged members to speak up and the NDUS will support that over the next two months.

9. SBHE Academic and Student Affairs Committee – Dr. John Warford
   Dr. Warford reported that the ASAC met on February 15, 2023, with all Committee members present. There were three (3) requests from NDSCS, DSU and MiSU for new programs which the Committee supported.

10. SBHE Research and Governance Committee – Dr. Casey Ryan and Ms. Danita Bye
    Dr. Ryan reported that the RGC Committee met on February 15, 2023, with all members present. For the Research portion of the meeting, he stated that discussions ensued about research education for the colleges wherein there are formal bills in front of the legislature. There will be a Research Event via a poster format presentation at the state capitol on March 24, 2023. This will be designed for all legislators to attend wherein students and faculty from all eleven (11) universities will provide information as to what research projects are taking place.

    Ms. Bye reported that the Governance Committee reviewed two (2) policies that required further refinement. Mission statements for the universities were reviewed and forwarded to the SBHE for final approval wherein some statements were revised.

11. SBHE Budget and Finance Committee – Mr. Tim Mihalick
    Mr. Mihalick reported that the BFC met on February 13, 2023, with all Committee members present. He gave an update on the NDUS Retirement Plan process in progress. He appointed an Evaluation Committee to work towards selecting a consulting firm to work with. The SBHE members appointed will be Mr. Black and Mr. Volk, faculty representatives will be Dr. Legerski, Laura Fettig and the NDUS representative will be Ms. Jane Grinde.

12. SBHE Audit Committee – Mr. Nick Hacker
    Mr. Hacker reported that the Audit Committee met on February 13, 2023. They discussed the Auditor's Office Audit Report that was conducted on internal controls and financial reporting and compliance as well as auditing of the financial statements of all institutions. That was a major audit, and the final report was very positive for the institutions and their CFOs. The performance conducted by the internal audit system was reviewed and showed good indicators and small improvements from the prior year. Two projects pending are the Procurement Audit and Safety and Security.

13. SBHE Efficiency and Opportunity Ad Hoc Committee – Mr. Nick Hacker
    Mr. Hacker reported that the SBHE Efficiency and Opportunity Ad Hoc Committee (formerly known as the Ad Hoc Committee) met on February 6, 2023. The Committee spent time developing a process or system to take feedback from campuses and other stakeholders within the NDUS and handle issues more efficiently.

Chancellor Report

14 Spring Enrollment Report/Comparisons – Dr. Jen Weber

Dr. Weber stated the Spring Enrollment Report is not as robust as the fall report because it is a follow-up report as to how things are going since it was presented (in the fall). In summary, the head count is up 2% from last spring and the scheduled credit hours and FTEs are up 1%. She explained that a difference occurs when the head count is higher than the FTEs due to more part-time students attending. A member questioned the tracking of dual-credit students, as freshman, when they are still in high school.

Dr. Weber will create a reporting tool capturing that data and bring it back to a future meeting for the Board to determine if that information would be helpful in future years.

15. May Strategic Planning Session – Chancellor/ Vice Chancellor Rostad

Chancellor Hagerott stated that a strategy meeting was held in 2016 and then about five (5) years later that NDUS finished Vision 2030. It is time again to start planning beyond 2030. The areas scheduled for the May 2023 strategic planning session will include:

- Board Philosophy and Governance Model
- Review of Envision 2030 Process as Model for Envision 2035
- 2023 Legislative Results and Implications
- Envision 2035, potential priorities: (i) Campuses to Highlight Emerging Strategic Priorities/Concerns (ii) SBHE Opportunities and Efficiencies

16. IT Update / Tik Tok – Vice Chancellor King

Chancellor Hagerott said that pre-covid an Advisory Group was established Artificial Intelligence of which companies were singled out with certain data systems. Major decisions were also made to work closely and fall under provisions for cyber security with the governor's office, that was not in place eight years ago. He reported that Tik Tok (a form of social media) is a new issue coming down the pipeline.

Vice Chancellor King provided the key elements to Tik Tok Risks:

- Risk to Personal Privacy
    - Tik Tok collects personal privacy data on its 100 M U.S. users
    - This personal data could be shared with CCP to violate the privacy of U.S. citizens or conduct surveillance activities
- Risk to Institutional Data and Security
    - CCP could weaponize TikTok app to steal information or compromise computer systems
- Risk to U.S. National Security
    - CCP could manipulate TikTok to spread disinformation or propaganda to influence elections, sway public opinion, influence purchasing decisions, or destabilize the U.S. economy
    - CCP could censor content critical of CCP
    - CCP could use the TikTok app to gain access to personal, research or other data for espionage purposes

NDUS TikTok Response Capabilities:

- CTS has the capability to block TikTok app from NDUS owned devices
- Faculty/staff mobile devices/phones not owned by NDUS would be difficult to block
- Blocking on student computers, phone and devices would be difficult to block
- Access to TikTok website and servers could be blocked on NDUS campus networks. This would block access to the app while a student/staff/faculty is on an NDUS campus network
- Blocking TikTok could have a negative impact on those NDUS Institutions using TikTok for student communication, education, marketing

Vice Chancellor King stated that over twenty-five (25) states have blocked TikTok, including North Dakota. The average age of users is between 18-25 years old and there are over 100 million users. Mr.

Black said he thinks TikTok should not be allowed on university networks or system-owned devices. Historically, what has been the process to implement a significant IT Policy shift to the State Board?

Chancellor Hagerott replied that it is a governance question noting that the Research and Governance Committee chaired by Ms. Bye, will elevate this issue. The Board has been concerned about this and the interim committee called out the SBHE as being one of the most adaptive on the digitization cyber-AI. The SBHE has been working on this through governance. Vice Chancellor King replied to Mr. Black's question, explaining that an IT Policy shift to the Board could be accomplished by the Board directing the IT Department to develop a plan and bring it back for further discussion and approval. Dr. Warford suggested looking further into, via a fast-tracked pace, "ChatGPT." He voiced concerns about what potential impact there could be on the academics at the institutions. Chancellor Hagerott said there is work in progress now as Dr. Armacost has stepped up to research ChatGPT. This topic can be included on the May 2023 Retreat Agenda.

Chair Ryan recommended both TikTok and ChatGPT be included as Agenda items for the May retreat event.

Mr. Black stated he has a sense of urgency related to the TikTok concerns brought forward. He recommended that Vice Chancellor King move it to a high priority and address the areas of concerns outlined in the power point presentation with all the campuses. Upon completion, he requested Mr. King to bring back to the next Board meeting, an implementation plan for consideration as to how a ban could be implemented.

Chair Ryan requested Vice Chancellor King to proceed with the recommendation as requested by Mr. Black and to provide an implementation ban that would ban TikTok from North Dakota university campuses along with any other recommendations Vice Chancellor King believes to be imperative to this topic.

Other Reports:

17 NDSA – Ms. Sadie Hanson

Ms. Hanson reported that the NDSA has not met since the last SBHE meeting. They will be meeting on February 25, 2023, in Minot.

18. CCF – Dr. Lisa Montplaisir

Dr. Montplaisir reported that CCF has been active weekly in directing some of the legislative bills being heard. They appreciated the support of the SBHE opposing bills HB1446 and SB2247.

19. Staff Senate – Mr. Michael Linnell

Mr. Linnell said the Staff Senate met on February 13, 2023, and most of the time was spent discussing the bills going through legislative session focusing on HB1003 and HB1446. They have been working closely with campuses on these bills.

20 Public Comment:

There was one comment suggestion for Board members or speakers as they begin talking to announce their name as there is no way to identify the speaker on the screen.

21. Assessment of Meeting and Future Agenda Items

Chair Ryan announced that the next meeting will be held on March 30, 2023. If issues come up prior to

that time, emergency video meetings could be held.

22. Motion to Adjourn

Black motioned, Mihalick seconded to adjourn the meeting at 12:09 p.m. CT.
Hacker, Mihalick, Bye, Volk, Warford, Hanson, Black and Ryan voted yes. The motion passed.

Approved March 30, 2023.