

**North Dakota Board of Higher Education**  
June 27, 2019, Meeting Minutes

The State Board of Higher Education met on Thursday, June 27<sup>th</sup>, at 8:30 a.m. CT., at Bank of North Dakota, 1200 Memorial Highway, Bismarck, ND 58501.

Chair Morton called the meeting to order at 8:35 a.m. CT.

SBHE Members participating:

Mr. Don Morton, Chair	Mr. Nick Hacker, Vice Chair
Dr. Casey Ryan	Ms. Ashley Thornton
Mr. Dan Traynor	Ms. Jill Louters
Mr. Tim Mihalick	Ms. Kathleen Neseť
Mr. Andy Wakeford, Staff Adviser	Dr. Birgit Pruess, Faculty Adviser

Chancellor present: Dr. Mark Hagerott

Institution Representatives Present:

Dr. Jerry Migler, Dean, DCB  
Dr. Tom Mitzel, President, DSU  
Dr. Brian Van Horn, President, MaSU  
Mr. Dan Leingang, BSC  
Dr. Larry C. Skogen, President, BSC (arrived 9:45)  
Dr. Alan LaFave, President, VCSU  
Dr. Steve Shirley, President, MiSU  
Dr. Joshua Wynn, Interim President, UND  
Dr. John Miller, President, WSC  
Mr. Lloyd Halvorson, LRSC  
Dr. John Richman, President, NDSCS  
Dr. Dean Bresciani, President, NDSU

NDUS Senior Staff Participating:

Ms. Tammy Dolan, VC of Administrative Affairs  
Ms. Lisa Johnson, VC of Academic and Student Affairs  
Mr. Phil Wisecup, VC Strategic Engagement  
Mr. Darin King, VC of IT/CIO  
Ms. Billie Jo Lorus, Director of Communications and Media Relations  
Ms. Kristie Hetzler, Executive Assistant to the State Board of Higher Education  
Ms. Terry Meyer, Chief of Staff  
Ms. Jane Grinde, Director of Human Resources  
Ms. Robin Putnam, Director of Financial Reporting  
Dr. Jen Weber, Director of Institutional Data and Reporting  
Ms. Laura Schratt, Chief Audit Executive  
Ms. Karol Riedman, Compliance Officer

Others Participating:

Mr. Eric Olson, Attorney General's Office

## 1. Agenda

Louters moved, Ryan seconded, to approve the agenda.

Mr. Hacker informed the Board he will abstaining his vote from BSC's purchase of the Health Science Building from BSC Foundation, consent item 12.

Ryan, Thornton, Louters, Traynor, Neseť, Hacker, Mihalick, and Morton voted yes.

2. Mr. Ron Ness, President of the ND Petroleum Council, Presented on Perspective on the Changing Oil and Gas industry in Western North Dakota

**Board Consent** (items 3 – 17)

Ryan moved, Mihalick seconded, to approve the consent agenda, items 3 – 17, allowing \*Mr. Nick Hacker to abstain from item 12, BSC's purchase of the Health Science Building from BSC Foundation.

Neseť, Traynor, Ryan, Thornton, Louters, Mihalick, and Morton voted yes. \*Hacker voted yes for items 3-11, abstained from item 12, and yes for items 13-17.

3. [May 30, 2019](#), Meeting Minutes

SBHE Academic and Student Affairs Committee

4. UND [Tenure](#)

SBHE Budget and Finance Committee

5. UND to [sell the following building/property: 1225 Stanford Road](#) (with an insurable value over \$250,000), and request the SBHE or a designee of the Board to approve the terms of the conveyance.
6. UND to [sell the following building/property: 715 N 40th St](#) (Gallery Apartments) (with an insurable value over \$250,000), and request the SBHE or a designee of the Board to approve the terms of the conveyance.
7. [UND to raze the following building: Dakota Hall](#) (with an insurable value over \$250,000).
8. [UND to raze four buildings: 3106 5th Avenue N., 506 Harvard St., 2920 5th Avenue N. and 325 Princeton St.](#) - each with an insurable value over \$250,000.
9. UND to [raze the Steam Plant building](#) (with an insurable value over \$250,000).
10. UND increase spending authorization and scope of [third floor renovation of O'Kelly Hall](#) from \$2,243,000 to \$2,750,000 (an increase of \$507,000 to be paid from appropriated (\$407,000) and local (\$100,000) funds) to cover expanded project scope: additional asbestos abatement and added furniture for more staff.
11. MiSU acting through the MSU Foundation, to proceed with a [formal fundraising campaign](#) of up to \$1,600,000 for repairs and improvements on the MSU Summer Theater facility.
12. [BSC to purchase the Health Science Building from BSC Foundation](#) Property Holdings, LLC, a subsidiary of the BSC Foundation.
13. LRSC requests permission, pursuant to SBHE Facilities policy 902.1.1, to [begin a fundraising campaign](#) to raise the \$1,322,625 needed to augment funding made available by the 66th ND Legislative Assembly for the purpose of constructing the Curtis and Annette Hofstad Agriculture Center on the campus of LRSC.
14. LRSC Approve the [transfer of \\$8,339 from the LRSC operations line](#) to the capital assets line, as authorized in SB2003 (Section 20), for the 2017-19 biennium. LRSC will use these funds for the required match on miscellaneous building repair projects.
15. NDUSO [Appropriation Transfer Requests](#) – BSC, DSU, and WSC

16. [NDUSO and SBHE FY20 and FY21 Biennial Budgets](#)

SBHE Audit Committee

17. 2019-2021 [Internal Audit Plan](#)

**18. State Auditor's Performance Audit of NDSCS**

SBHE Audit Committee Chair, Kathleen Neset explained the SBHE Audit Committee has been reviewing and discussing a [performance review of the North Dakota State College of Science](#) Division of Workforce Affairs, initiated and executed by the North Dakota State Auditor's office (SAO). She reviewed the timeline and process taken since the report of NDSCS was received to present time. She explained the audit committee reviewed each recommendation and summarized two major findings that were determined to be serious and concerning 1) withholding of support/information to the State Auditor's office, and 2) the conflict of interest issue in the case of the FLINT Group. She also noted the climate and culture in place at NDSCS, though no part of the audit, has for quite some time come under criticism from faculty and staff.

She worked with the Chancellor on a draft temporary oversight letter, that was sent to President Richman; President Richman declined to sign the oversight letter and requested NDSCS be allowed to create a plan to address the audit findings. She further explained the Chancellor continued discussions with President Richman and a second temporary oversight letter was sent to President Richman; he again, declined to sign the letter and maintained the leadership at NDSCS would create their own plan to address the findings. Ms. Neset indicated that in her years as a Board member, she could recall no other time the State Auditor's Office had difficulty receiving documentation they requested from a campus and their decision decline a response from campus management; it is extremely concerning and is a clear reason for the temporary system oversight.

She reminded Board members, it's their fiduciary duty to ensure all the NDUS institutions are properly led and managed. Campus leaders must be trustworthy, cooperative, transparent, and mutually respectful of other state agencies, as we are all stewards of the state.

There is clear documentation that NDSCS leadership did not provide the information requested by the SAO and it was brought to the Chancellors attention. The Chancellor ultimately directed the IT and office staff to search and provide documents requested by the auditor. Lastly, she indicated a temporary system oversight has been utilized in the past and has shown to be effective; the Chancellor agreed, further, stating these types of plans maintain accountability of the system as a whole and provide assistance to the campuses.

President Richman addressed the Board members regarding his request for NDSCS to create an action plan and reason(s) for declining a system oversight plan. He stated the contents of the oversight letter were beyond the findings of the audit report. He explained the lack of documents provided to the auditor's office was due to the auditor's request being too broad and/or not specific enough to identify related documents. He further responded to the second concern regarding a conflict of interest pertaining to Mr. Tony Grindberg. He stated the auditors only requested documentation on the selection and procurement process of the Flint Group.

President Richman informed the Board that the NDSCS plan was more comprehensive, addresses both concerns, and has already been implemented. He asked the Board to table consideration of his contract renewal and pay increase if they choose to implement an oversight plan. His request is based on maintaining equality and accountability across the NDSCS campus staff, faculty, and administration.

Traynor moved, Thornton seconded, to approve the action plan proposed by NDSCS and direct President Richman to implement the plan as proposed and report to the Chancellor and the SBHE on the implementation at the SBHE September meeting.

Hacker, Thornton, Traynor, and Morton voted yes. Neseť, Louters, Mihalick, and Ryan voted no.

Motion failed 4-4.

Neseť moved, Ryan seconded, to approve the temporary system oversight plan.

Neseť, Louters, Mihalick, and Ryan voted yes. Hacker, Thornton, Traynor, and Morton voted no.

Motion failed 4-4.

Traynor moved, Hacker seconded, to approve the NDSCS action plan to be identified as the oversight plan and authorize the Chancellor to provide assurance to the SBHE at their September meeting the plan has been fully implemented. Further, the Chancellor is authorized to take any further action as he deems appropriate concerning the campus of NDSCS.

The Board clarified the motion authorizes the Chancellor to make additions to the proposed NDSCS plan of action as necessary and to report back to the Board in September. Further clarification, the Chancellor's monitoring component is outside the Chancellor's typical function, however, in this case the Board directs the Chancellor to oversee President Richman and the NDSCS plan, beyond his normal supervision of a campus President.

Ryan, Thornton, Traynor, Hacker, Mihalick, and Morton voted yes. Neseť and Louters voted no. Motion passed 6-2.

#### **19. Policy 302.7 - Establish Research Committee**

Dr. Casey Ryan reviewed the proposed new [policy 302.7](#), that established an SBHE Research Committee

Ryan moved, Mihalick second, to approve 1<sup>st</sup> Reading, waive 2<sup>nd</sup>, and final adoption of policy 302.7 Research Committee.

Ryan, Thornton, Louters, Traynor, Neseť, Hacker, Mihalick, and Morton voted yes.

#### **20. DSU Dual Mission/Mission Statement**

Interim Vice Chancellor Johnson presented both DSU'S request for the Board's affirmation for a dual mission institution and a request for a corresponding mission change as a result of that status.

DSU's current Mission Statement: Dickinson State University is a regional four-year institution within the North Dakota University System, whose primary role is to contribute to intellectual, social, economic, and cultural development, especially to Southwestern North Dakota. The University's mission is to provide high-quality, accessible programs; to promote excellence in teaching and learning; to support scholarly and creative activities; and to provide service relevant to the economy, health, and quality of life for the citizens of the State of North Dakota.

Ryan moved, Thornton seconded, to approve the change of [DSU's Dual Mission and Mission Statement](#).

Ryan, Thornton, Louters, Traynor, Nese, Hacker, Mihalick, and Morton voted yes.

**21. NDUS Strategic Planning – Goal 2.2C**

Vice Chancellor of strategic engagement, Mr. Wisecup, explained the rationale for removing the attainment goal from NDUS metrics. He informed the Board that there are no resources available to market, or to take major actions to pursue this goal. If this goal gets traction in the future, it will need to be declared a statewide goal (not just a higher education goal) supported by statewide resources.

Ryan moved, Mihalick seconded, to approve removing? NDUS Strategic Planning [Goal 2.2C](#).

Nese, Traynor, Louters, Ryan, Thornton, Hacker, Mihalick, and Morton voted yes.

**22. NDSU to rename the NDSU Veterinary Diagnostic Laboratory**

Ms. Dolan presented a proposal to rename the NDSU Veterinary Diagnostic Laboratory. Board members encouraged approval, explaining the former Senator Bill Bowman sought and secured funding for the project, which was included in HB1020 of the 64th Legislative Assembly (2015). Without his diligence and continued efforts to seek solutions, the building likely would not have been authorized and funded by the Legislature.

According to a recommendation for this request:

*“Senator Bowman was a champion for many other projects related to the NDSU Extension Service and ND Agricultural Experiment Station over the years.”*

Traynor moved, Ryan seconded, to approve [NDSU renaming of the Veterinary Diagnostic Laboratory](#) to the Senator William (Bill) Bowman Veterinary Diagnostic Laboratory.

Thornton, Traynor, Nese, Louters, Ryan, Hacker, Mihalick, and Morton voted yes

**23. Policy 508.3 Skilled Workforce Scholarship and Student Loan Repayment Programs**

Ms. Johnson reviewed proposed amendments to [policy 508.3](#), requesting approval take place prior to the start of the fall semester.

Louters moved, Traynor seconded, to approve 1<sup>st</sup> Reading, waive 2<sup>nd</sup>, and final adoption of policy 508.3.

Hacker, Ryan, Thornton, Louters, Traynor, Nese, Mihalick, and Morton voted yes.

**24. Policy 302.3 Budget and Finance Committee**

Ms. Dolan reviewed proposed amendments of [policy 302.3](#).

Traynor moved, Mihalick seconded, to approve 1<sup>st</sup> Reading, waive 2<sup>nd</sup>, and final approval of policy 302.3.

Neset, Traynor, Hacker, Ryan, Thornton, Louters, Mihalick, and Morton voted yes.

**25. Policy 804 Equipment and Personal Property Leases**

Ms. Putnam reviewed proposed amendments to [policy 804](#).

Traynor moved, Mihalick seconded, to approve 1<sup>st</sup> Reading of policy 804.

Louters, Neset, Ryan, Thornton, Traynor, Hacker, Mihalick, and Morton voted yes.

**26. Policy 804.1 Tax Exempt Bond Issues and Lease Purchase Financing**

Traynor moved, Thornton seconded, to table [policy 804.1](#), for further clarification.

Traynor, Neset, Hacker, Ryan, Thornton, Louters, Mihalick, and Morton voted yes.

**27. Policy 810 Deposit of Funds; Investments; Endowment and Gift Funds**

Ms. Putnam reviewed amendments to [policy 810](#).

Traynor moved, Ryan seconded, to approve 1<sup>st</sup> Reading of policy 810.

Mihalick, Traynor, Neset, Louters, Ryan, Thornton, Hacker, and Morton voted yes.

**28. HR Policy 20 Other Paid Leave**

Ms. Grinde reviewed amendments to [HR policy 20](#).

Ryan moved, Thornton seconded, to approve 1<sup>st</sup> reading of HR policy 20.

Ryan, Thornton, Louters, Neset, Hacker, Mihalick, and Morton voted yes. Traynor abstained.

**29. HR 22 Family Leave (FMLA)**

Ms. Grinde reviewed amendments to HR policy 22. North Dakota University System, human resource policy 22, Family Leave policy is derived from the family medical leave act (FMLA) which provides up to 12 weeks of unpaid leave and job protection for employees who meet the eligibility requirements. The FMLA notice of eligibility provides employers options to choose a leave entitlement measurement period and options to run FMLA leave concurrent with other applicable leave. The Human Resource Council recommends a consistent approach across all campuses to use the same method for leave entitlement measurement and running leave concurrent with other applicable paid leave. In addition, House Bill 1470 expanded eligibility to include child bereavement, effective Aug 1, 2019.

Ryan moved, Thornton seconded, to divide the question to approve **only** the child bereavement portion of the amendments to HR policy 22 on 1<sup>st</sup> Reading, waive 2<sup>nd</sup>, and final adoption HR 22 Family Leave (FMLA).

Section 1 (g) - Because of the death of the employee's child, if the leave concludes within six months of the child's death. Child bereavement leave is limited to one hundred sixty hours and must be taken within six months following the death of the child.

Ryan, Thornton, Louters, Neset, Hacker, Mihalick, and Morton voted yes. Traynor abstained.

Ryan moved, Thornton seconded, to approve 1<sup>st</sup> reading of the remainder of the divided question as to the amendments to HR policy 22.

Thornton, Ryan, Louters, Neset, Hacker, Mihalick, and Morton voted yes. Traynor abstained.

**30. Policy 308.1, Officer and Employee Code of Conduct**

Assistant Attorney General, Mr. Eric Olson, reviewed and explained the proposed amendments to [policy 308.1](#), regarding SBHE members employment classification. The first sentence of Paragraph 5 is amended to clarify that SBHE members are considered NDUS employees for payroll and tax purposes. A sentence was also added at the end of paragraph 5 which defines the type of employee as "temporary and" refers the reader to the NDUS Human Resources Policy Manual. The manual further states that, unless specifically stated, the term "employee" used in SBHE policies does not include SBHE members.

Ryan moved, Mihalick seconded, to approve 1<sup>st</sup> reading of policy 308.1.

Louters, Traynor, Ryan, Thornton, Neset, Hacker, Mihalick, and Morton voted yes.

Ms. Johnson reviewed the following proposed policies 402.9, 503.1, and 401.1, as 2<sup>nd</sup> Readings (items 31-33):

**31. Policy 402.9 Admission Policies - New International Students**

Ryan moved, Traynor seconded, to approve 2<sup>nd</sup> reading and final adoption of policy [402.9](#).

Neset, Traynor, Hacker, Ryan, Thornton, Louters, Mihalick, voted yes. Morton absent.

**32. Policy 503.1 Student Free Speech and Expression**

Louters moved, Thornton seconded, to approve 2<sup>nd</sup> reading and final adoption of policy [503.1](#).

Hacker, Ryan, Thornton, Louters, Neset, Mihalick, and Morton voted yes. Traynor abstained.

**33. Policy 401.1 Academic Freedom**

Louters moved, Thornton seconded, to approve 2<sup>nd</sup> reading and final adoption of policy [401.1](#).

Traynor, Hacker, Ryan, Thornton, Louters, Neset, Mihalick, and Morton voted yes.

**34. Chancellor Hagerott's Contract**

Chair Morton stated that Chancellor Hagerott's overall performance ratings were good and positive. The ratings were based on feedback from the Board members, some Presidents and system office staff.

Morton moved, Louters seconded, to extend Chancellor Hagerott's contract to July 1, 2021 and approve the proposed pay raise.

**35. Chancellor and NDUS Office Vice Chancellors & Senior Officers Salaries**

Traynor moved, Louters seconded to approve the Chancellor and NDUS Office Vice Chancellors and senior officers' salaries. Board members discussed whether or not this item should be reviewed by the Budget and Finance Committee(BFC) and in previous years it was sent directly to the full Board; however, there were no raises awarded in the past two years. The Board determined it should be reviewed by the BFC this year and in future years.

Traynor withdrew his motion.

Ryan moved, Traynor seconded, moved to refer the proposed salaries back to the SBHE Budget and Finance Committee and authorize the committee to have final approval.

Thornton, Hacker, Ryan, Louters, Traynor, Neset, Mihalick, and Morton voted yes.

**36. Presidential Contracts/ Executive session (12:18)**

Louters moved, Ryan seconded, to enter Executive Session to (1) consider the appointment, re-appointment, and any new contract terms for Presidents of NDUS institutions (excluding President Richman at his request) and (2) limit the executive session to voting Board members, non-voting advisors, Chancellor, selected NDUS office staff, and Board counsel.

The legal authority for closing this portion of the meeting is North Dakota Century Code section 15-10-17(1) (a).

Executive session began at 12:23 p.m. CT.

SBHE Members participating:

Mr. Don Morton, Chair  
Dr. Casey Ryan  
Mr. Dan Traynor  
Mr. Tim Mihalick  
Mr. Andy Wakeford, Staff Adviser

Mr. Nick Hacker, Vice Chair  
Ms. Ashley Thornton  
Ms. Jill Louters  
Ms. Kathleen Neset  
Dr. Birgit Pruess, Faculty Adviser

Others Present:

Chancellor Hagerott  
Ms. Terry Meyer  
Mr. Phil Wisecup  
Ms. Kristie Hetzler  
Mr. Ryan Jockers

Executive session adjourned at 1:44 p.m. CT.

**37. Reconvened at 1:52** to take action regarding the appointment, reappointment, and any new contract terms for presidents of NDUS institutions.

Traynor moved, Louters seconded, to extend the following Presidents' contracts to July 1, 2021 and approve FY20 salary ranges as recommended by the Chancellor:

DSU President Mitzel;  
MiSU President Shirley;  
WSC President Miller;



LRSC President Darling;  
BSC President Skogen;  
NDSU President Bresciani;  
And further, [approve FY20 salary ranges](#) as recommended by the Chancellor for MaSU President Van Horn, and, VCSU President LaFave.

Hacker, Ryan, Thornton, Louters, Traynor, Nese, and Mihalick voted yes. Morton and Louters voted no.

\*Louters requested clarification, legal counsel clarified the motion and roll call was repeated:

\*Thornton, Traynor, Nese, Louters, Ryan, Hacker, Mihalick, and Morton voted yes. Motion passed 8-0.

At President Richman's request, the Board considered his contract renewal during the open portion of the meeting.

Traynor moved, Ryan seconded, to table consideration of President Richman's contract until the SBHE Board meeting on September 26.

Traynor and Mihalick voted yes. Thornton, Nese, Ryan, Hacker, Louters, and Morton voted no. Motion failed 2-6.

Ryan moved, Thornton seconded, to approve NDSCS President Richman's to be extended to July 1, 2021.

Hacker, Ryan, Thornton, Louters, Mihalick, and Morton voted yes. Nese and Traynor voted no. Motion passed 6-2.

\*Clarification was made at the end of Board business, to consider President Richman's salary increase:

Traynor moved, Ryan seconded, to approve President Richman a salary increase as recommended.

Hacker, Traynor, Ryan, Thornton, Louters, Mihalick, and Morton voted yes. Nese voted no. Motion passed 7-1.

### **38. SBHE Committee Authority**

Incoming Chair Hacker moved, Ryan seconded, to give full approval authority to all SBHE Committees during meetings taking place in July and/or August.

Hacker, Ryan, Thornton, Nese, Traynor, Louters, Mihalick, and Morton voted yes.

### **39. UND Presidential Search**

UND Search Committee Chair, Dr. Ryan, gave an update on the UND Presidential search. The committee will be co-chaired by Dennis Elbert, retired UND business school dean and comprised of the following members:

- Steve Burian, UND alum from Grand Forks and former CEO of AE2S;

- Howard Dahl, a UND alum who currently lives in Fargo and sits on the Board of Trustees of the Trinity Forum;
- Joshua DeMorrett, UND alum who oversees stakeholder relations at ConocoPhillips in Dickinson;
- Gracie Lian, UND student body president;
- Cynthia Lindquist, president of Cankdeska Cikana Community College in Fort Totten;
- Whitney Maine, UND Staff Senate president;
- Daphne Pedersen, UND faculty member;
- Paul Todhunter, UND University Senate president; and
- DeAnna Carlson Zink, head of the UND Alumni Foundation.

North Dakota University System Chancellor Mark Hagerott and Mayville State President Brian Van Horn will serve as ex-officio members. Dr. Ryan will provide the Board with updates on the process at future Board meetings.

#### 40. **SBHE Audit Committee Report**

Audit Chair Neset provided an update on items the Audit Committee reviewed. The committee received draft operational reports from the State Auditor's Office. Those reports were shared in executive session; the committee accepted the reports and responses by the campuses and system office. They were made final and posted to the public.

#### 41. **SBHE Governance Report**

Governance Chair Ryan provided an update on items that were reviewed by the Governance Committee. Eight out of 10 members completed the [SBHE self-evaluation report](#); the Committee requested Ms. Schrott reach out to the remaining two members for their input and bring it back to the Committee for a recommendation to the full Board.

#### 42. **2019-2020 Board Committees**

Incoming Chair Hacker distributed committee assignments, effective July 1, 2019. These assignments take place on an annual basis in June by the incoming Board Chair. The assignments can be altered at any time throughout the year.

Incoming Chair Hacker recommending granting full authority to all committees during the months of July and August, due to the full Board not being scheduled to meet until September.

Hacker moved, Ryan seconded, to grant full authority to all Board committees from now until the next meeting of the full Board.

Thornton, Hacker, Ryan, Louters, Traynor, Neset, Mihalick, and Morton voted yes.

Traynor moved, Ryan seconded, to allow the Board Chair the authority to adjust the committee membership as needed at any time.

Louters, Traynor, Thornton, Hacker, Ryan, Neset, Mihalick, and Morton voted yes.

#### 43. **Chancellor's Report**

Chancellor Hagerott provided a system office staffing update to the Board. Ms. Lisa Johnson, Interim Vice Chancellor of Academic and Student Affairs is now the Vice Chancellor of Academic and Student Affairs. Ms. Terry Meyer, Deputy Chief of Staff is now the Chief of Staff.

**44. NDSA**

Ms. Thornton provided the Board an update on behalf of the North Dakota Student Association.

**45. CCF**

Dr. Pruess provided the Board an update on behalf of the Council of College Faculties.

**46. Staff Senate**

Mr. Wakeford provided the Board an update on behalf of the Staff Senate.

**Present Recognition Plaques to outgoing Board Members**

Chair Morton presented Mr. Andy Wakeford, Dr. Birgit Pruess, and Ms. Ashley Thornton with recognition plaques and thanked them for their work on the Board.

**Public Comment** – No comments

The meeting adjourned at 2:20 p.m. CT.

Approved September 26, 2019.