Administrative Affairs Council Meeting Minutes
Conference Call on October 11, 2006

Participants
Dave Clark -BSC
Corry Kenner-LRSC
Nicci Strand-WSC
Bob Gallager-UND
Broc Lietz, John Adams-NDSU
Mike Renk- NDSCS
Alvin Binstock-DSU
Steve Bensen-MaSU
Ron Dorn-MiSU
Jim Borkowski, MiSU-BC
Laura Glatt, Cathy McDonald, Tamara Barber. Pat Seaworth-NDUS Office

Proposed Legislation
Alvin questioned options for criminal background checks on new hires. Pat indicated are two options:

1.) through the Bureau of Criminal Investigation (BCI) a limited statewide check can be requested. This will include information limited to the State of ND, reported through the courts, law enforcement and other reportable offenses in the past three years. The cost is $15.

2.) Another state statute permits BCI to get a complete nationwide check through the FBI. However, statute limits requests for certain types of positions only (e.g. child care workers). A formal request, along with fingerprints, must be submitted to BCI. The cost is $30.

Pat said he has prepared a bill draft which would amend the nationwide criminal background check statute to include “NDUS positions as designated by the Chancellor”. He went on to say that any changes to this statute must be approved by the FBI in order to limit the volume of requests the FBI receives. As a result, positions would have to be limited.

With regard to local law enforcement information, Pat pointed out that under the current law, law enforcement cannot release to others information they have obtained through criminal background checks. In response to a question, Pat said he would could not find clear legislative history to suggest why the information cannot be released if safety is an issue. Bill Ament said he would follow up with Sen. Larry Robinson to determine whether legislators will be introducing legislation to change this provision if so, the NDUS could possibly support that legislation.
Alvin questioned what campuses can do for background checks for those employees who may not be covered in statute permitting the nationwide search through the FBI. In response, Pat said that experts suggest that if an employer is going to perform background checks on employees it is best to perform them on all hires, not just a select group. Focusing on a select group may actually increase the employer’s potential liability. He said that for the non-covered employees, campuses could use the more limited statewide BCI check and hire a local firm or internally do out-of-state background checks by contacting counterpart BCI agencies in other states, where the applicant has resided.

Broc questioned whether the Council would consider seeking a change to the shared leave program to permit the creation of a campus-wide pool or bank for shared leave. He said that NDSU is interested in such a proposal for two reasons: 1.) reduce administrative oversight for the currently centrally managed program, although Broc said that NDSU could look to de-centralize the administration of the program across campus to address this issue; and, 2.) staff senate has asked for options to permit employees, who might otherwise lose annual leave at year end, to instead of losing the leave be able to contribute it to a shared leave bank.

Bob said UND would not be supportive of such a shared leave program. He said that he is concerned about the fiscal liability this would create and said that in UND’s experience most employees want to donate leave to a specific individual, not a general shared pool. Furthermore, he said UND has not found an instance where an employee in need of leave did not receive an adequate amount of donated leave. Other Council members also expressed concern about the fiscal liability and the rate at which this liability will continue to increase as a shared leave pool increases over time. The majority of the Council was not supportive of seeking legislation to create a shared leave pool.

Bob questioned whether legislation currently under consideration by the Industry, Business and Labor Committee would impose state statute restrictions on Foundations and other related entities, on construction projects, if state funding is included in a project. Bob said some of the Center of Excellence construction is handled through the Foundation.

After reading the specific section in question, Pat did not interpret it to impose such a restriction. However, he said he would follow up with the Legislative Council staff member who drafted the bill to determine what is intended.

Minnesota Reciprocity Payment Allocation
Laura presented a model for allocating the MN reciprocity payment. She said the model assumes that the full amount of the payment (estimated to be $1.2 million for 05-06) be allocated to the campuses. The model is based on MN enrollment at various NDUS campuses and takes into account the difference between the cost of educating these students (based on the MN reciprocity calculation which is based on UND/NDSU costs) and the amount of tuition paid by MN students at the various NDUS campuses. She said
the model has been reviewed by UND, NDSU and NDSCS, the three campuses with the largest number of MN students, and they support the proposed model. The final payment will be calculated in December, when the final payment is received.

She said that of the $1.2 million expected for 05-06, the NDUS has received $900,000 to date. The balance is due in December. The campuses have encouraged allocation of the $900,000 received to date. Laura said the allocation could be made pending SBHE action at their November meeting, but warned Council members that allocations prior to finalizing the information, are estimates and run the risk of over-allocation in total or over or under allocation by campus. In the event of this, campuses may have to return money at a later date. This occurred on at least one occasion in the past.

SBHE review of the proposal is required since the Council is recommending that the full amount of the payment be allocated to the campuses, instead of split between the campuses and the state grant and scholar’s program, as was done in the past.

Based on the consensus of the Council, Laura said she would forward the model to the Cabinet for consideration at their October 25th meeting.

Disability Plan Balance
Tamara said she recently learned that The Standard is automatically using the claims fluctuation reserve to help offset current claims and future premiums. As a result, the balance has now been reduced to $27,000.

Payment on Excess Leave Balances
Broc questioned recent CND annual leave excess balance payments under current SBHE policy. He said this runs contrary to past HE practice where the understanding was that you use or lose your annual leave according to the 240 limit. Broc further said he believed that the $99,000 cost to CND for such payments could have been better used for other CND needs and priorities, consistent with the student fee and SBHE fund allocation. It is not his intent to suggest that these employees use or lose the leave, but said that an alternative would have to extend the time period over which the additional hours were to be used. Bob added his agreement, indicating that UND has similar concerns and suggested the SBHE should prescribe whether these payments should be permitted, and if so, under what conditions.

Laura said Bonnie Neas felt like this was an important priority, understanding all of the other demands on the CND resources. Laura said that it was important to recognize the personal contributions these employees have made over the past four years and it is also a morale issue. Furthermore, it is not practical to assume that these employees will ever be able to use their accrued leave balances, given the ongoing demands of the project. She said she, along with the chair of the CND Oversight Committee, supported Bonnie’s recommendation.
Mike said he feels the payments are appropriate, and has a similar situation on campus, where he may use a similar approach. These people worked hard, putting in a lot of extra hours, and we should be paying them accordingly.

Pat pointed out that these payments do not represent a change in practice. He said that SBHE approved a policy change to provide a one-time exception to the leave policy for CND employees, in recognition of the fact that they would not be able to use the full amount of their leave during the implementation period. This one-time policy exception did not work as intended. Even with the phased out hours, CND employees were still not able to use the excess leave. Since these payments are tied to this one-time exception, they do not establish a precedent for other payments.

Broc said that some campus employees are faced with the same situation due to the CND project. He went on to suggest that perhaps CND funding could also be used to assist campuses with funding to provide similar payments to campus employees since campuses do not have the resources available to make the payments. Pat reminded the Council that there is nothing in the policy prohibiting campuses from making payment.

Broc also said that some of the payments reduced leave balances below 400 hours. Laura said that the intent was to reduce the hours to 400 hours, recognizing that employees would still likely lose other hours this year. She said that some of the final payments may have taken some employees below 400 hours. The calculations were based on early estimates and assumptions on usage, which have changed. Broc said this is an example of where CND is not working closely enough with the campus HR Offices who have the most current information. Broc also questioned whether additional payments would be made again in the future if employees are not able to again use their leave balances. Laura said these payments were made with the understanding that this was a one-time event.

Alvin said that Bonnie has been charged to manage the project, including management of the budget. This is a management decision of how best to use limited funds. But, he indicated that these payments due create a systemwide issue or concern among other employees.

Bob said that campuses should be enabled to make payments in a similar situation. Pat reiterated that campuses can currently do this. A written agreement is required in the event employees are paid for unused leave waiving their right or entitlement to those hours in the future.

Laura said that the Council will wait to see if the Human Resource Council recommends any changes to the policy and at that time, the Admin. Affairs Council can determine whether they support any proposed changes or not.

Steve said that he has two employees at MaSU who are in a similar situation and he would like to provide a payment to them in recognition of the excess leave balances.
Alvin added caution to the HRC when they consider this, to be sensitive to referring to payments as an annual leave buyout.

Future Meeting Dates
November 14, 2006
December 12, 2006

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