Board Chair Hjelmstad called the meeting to order at 12:20 p.m. CDT.

Members present:

- Dr. Terry Hjelmstad, Chair
- Dr. Kevin Melicher
- Mr. Grant Shaft
- Mr. Mike Ness
- Dr. Eric Murphy, Faculty Adviser
- Ms. Kathleen Neset, Vice Chair
- Ms. Kari Reichert
- Mr. Chris McEwen
- Ms. Janice Hoffarth, Staff 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. Grosz, Dean, DCB
- 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 Administrative Affairs
- Ms. Billie Jo Lorius, 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, Shaft seconded, to approve the March 26, 2015, Board agenda.

McEwen, Reichert, Melicher, Shaft, Hjelmstad, Neset and Ness voted yes. The motion carried.
House Bill 1003 regarding Legal Services
Mr. Sagsveen stated the State Board of Higher Education (SBHE) tabled action on HB 1003, regarding removing legal and internal audit services from the NDUS. He noted Section 5 of HB1003 removes 8.6 six full time equivalents (FTE’s) and $2.6 million dollars from the North Dakota University System (NDUS) office and provides 6 FTE’s and $1.6 million dollars to the Attorney General’s (AG’s) office to provide legal services to the NDUS and SBHE. Section 22, which amends NDCC 54-12-08, removes authority from the SBHE to hire its own attorneys. The amendments indicate the legislative intent is to fill the new AG positions based on a competitive hiring process. The AG’s bill, Senate Bill 2003 (SB 2003), may also be amended to accomplish the change in legal services. Mr. Sagsveen explained the possible negative implications of engrossed HB1003:

- Termination of all 8 NDUS attorneys and 2 support staff, effective June 30, 2015
- Terminated NDUS attorneys will have to undergo competitive hiring process through AG’s office
- The SBHE will no longer direct legal staff
- Attorneys will be able to provide legal services only to extent authorized by AG
- Appropriation to AG’s office does not include funding and FTEs for current support staff
- Several NDUS attorneys see no realistic option but to seek other employment opportunities
- SBHE may have to issue termination notices about May 1, 2015
- Under SBHE Policy 608.2 NDUS will incur significant severance costs
- The National Association of College and University Attorneys (NACUA) advises best practice is to retain in-house counsel for a demanding, highly-regulated, highly-specialized field of higher education law

Mr. Sagsveen invited Deputy Attorney General, Mr. Trenbeath, to address the AG’s position regarding the transition of legal services. Mr. Trenbeath explained that it is too early in the legislative process to know the results of HB1003 and SB2003; the AG’s office does not have a position on the shift of legal services from the NDUS to the AG’s Office. He stated that he would be working with the appropriate legislative committee to ask that all 8 FTE positions be made available to the AG’s office.

House Bill 1003 regarding Audit Services
Mr. Sagsveen explained HB1003 also removes the internal auditor positions and funding from the NDUS and instead funds six positions in the State Auditor’s office (SAO). Mr. Sagsveen outlined implications with this transition, such as:

- Termination of 3 NDUS internal auditors, effective June 30, 2015
- SBHE will no longer have any internal audit capabilities
- Reduces the SBHE’s ability to economically administrate and be efficient
- Complete elimination of internal auditing may have constitutional implications as well, Article VIII, Section 6(6)(b), of the ND Constitution provides:
  - The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.
Mr. Sagsveen asked State Auditor Peterson to address the concerns of the NDUS office and their internal auditing capabilities. Mr. Peterson stated the SAO can’t perform the internal auditing function on behalf of the NDUS as it would jeopardize their independence as external auditor. He noted the internal audit function is extremely important to have and, in past audits of NDUS, the SAO has strongly recommended an internal audit function within the NDUS. He said they would continue to make such recommendation. Board members inquired how to proceed with the internal auditing function and what other methods could be utilized. Mr. Peterson stated that an efficient internal auditor must report to the SBHE and it will be up to the Board on how they wish to proceed. He stated the Board could consider externally contracting for internal audit services.

Melicher moved, McEwen seconded, to maintain the position that the SBHE and NDUS employ their own attorneys and internal auditors; and further, if a bill passes, mandating the removal of the attorneys and auditors from the NDUS office, the SBHE will have an opportunity to discuss final details on the transition process.

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

**Board Retreat Dates**
Dr. Skogen stated the original Board retreat dates were July 29 and 30, 2015; however, there are a couple Board members that will not be able to attend on those dates. He requested moving the Board retreat to June 24 and 25, 2015, and to hold the retreat at Microsoft in Fargo.

McEwen moved, Melicher seconded, to approve moving the Board retreat date to June 24 and 25, 2015, and to be held at Microsoft in Fargo.

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

**State Grant Advisory Board**
New appointments on the State Grant Advisory Board are needed to replace term-expired positions for the 2015-2016 academic year. Dr. Doug Darling will be replacing Dr. John Richman of NDSCS as chief administrator. Mary Hager will be replacing Steve Bensen of Mayville State in the role of chief fiscal officer. Bob Mason will be replacing Mikayla Greely as the student member.

McEwen moved, Ness seconded to approve Dr. Doug Darling, President, Lake Region State College; Mary Hager, Vice President for Financial Affairs, University of Mary; and Bob Mason, BSC/NDSU student to the State Grant Advisory Board.

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

**Honorary Degrees**
McEwen moved, Ness seconded, to approve the following honorary degrees:

- NDSCS honorary degree candidates:
  - North Dakota State Representative Clark Williams
  - North Dakota State Representative John Wall (posthumous)

- UND honorary degree candidates:
Bill Gross, founder of Farm Rescue  
Greg Page, CEO of Cargill  
Gerald W. VandeWalle, North Dakota Supreme Court Chief Justice

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

**Minard Hall**

Mr. Dan Hull, the attorney assigned to lawsuits regarding NDUS Minard Hall, explained the collapse of Minard Hall in December of 2009, which led to the following lawsuits, all venued in Cass County District Court, Fargo:

- North Dakota State University vs. State Fire and Tornado Fund of the North Dakota Insurance Department; Johnson Laffen Galloway Architects, Ltd; Heyer Engineering, P.C.; Northern Technologies, Inc.; Meinecke-Johnson Company and Earth Developers, Inc.;
- State of North Dakota by and through the North Dakota State Board of Higher Education and North Dakota State University vs. Johnson Laffen Galloway Architects, Ltd.; Heyer Engineering, P.C.; Northern Technologies, Inc.; Meinecke-Johnson Company and Earth Developers, Inc.;
- Grant’s Mechanical, Inc. vs. State of North Dakota, North Dakota Board of Higher Education and North Dakota State University.

An executive session will provide an opportunity for the SBHE to provide negotiating and potential settlement guidance to the NDUS General Counsel—Fargo and litigation attorney.

Melicher moved, McEwen seconded, to hold an executive session: pursuant to North Dakota Century Code sections 44-04-19.1 and 44-04-19.2, for the purposes of (1) attorney consultation and (2) discussion of negotiation strategy and providing negotiating instructions in connection with mediation and potential settlement of pending litigations, specifically those cases involving the December 2009 collapse of Minard Hall, a building located on the campus of North Dakota State University. An executive session is necessary to protect the bargaining position of the State Board of Higher Education in these cases.

The executive session shall be limited to: (1) members of the SBHE, including the faculty advisor and the staff senate advisor; (2) NDUS Chancellor, Chief of Staff, and General Counsel - Fargo; (3) NDSU President, Vice President for Finance and Administration, Budget Director, Facilities Management Director and litigation attorney; and (4) Executive Assistant to the SBHE and SBHE support staff.

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

Executive session began at 1:55 p.m. CDT.

McEwen moved, Neset seconded, to adjourn in executive session at 2:55 p.m. CDT.

Ms. Reichert departed from the meeting.

McEwen moved, Melicher seconded, to reconvene in open meeting.

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

Shaft moved, Neset seconded to authorize the attorneys to proceed with mediation within the limits as discussed in executive session.
McEwen, Melicher, Neset, Shaft, Hjelmstad, and Ness voted yes. The motion carried.

**SBHE Budget and Finance Committee (BFC)**

Mr. Shaft stated that University of North Dakota (UND) gave an overview on their tuition model at the last BFC meeting. He stated that UND continues to work within the framework set by the Board in October, 2014, and further modified in January and February of 2015. There are certain unique variables present at UND that they are working through. Mr. Shaft stated the shift from twelve to fifteen credit hours was to increase the graduation rate and encourage students to complete in eight semesters to reduce their overall total cost. Mr. Shaft said there needs to be a balance between the Board’s request to increase graduation rates and tuition increases.

Shaft moved, Melicher seconded, to approve the SBHE Budget and Finance Committee (BFC) recommendation of the following budget and finance items:

- Approve to request increased authorization from $5,510,000 to $5,754,484, an increase of $244,484 for the MaSU Health and Physical Education Recreation (HPER) facility, to be funded from the SBHE 13-15 capital contingency fund; and, further authorize transfer of $244,484 from the SBHE capital project contingency fund to MaSU.
- Approve an amendment to Engrossed HB1003 to seek authorization for following additional non-state funded projects if the bill includes an amendment to N.D.C.C. 15-10-12.1 to require legislative approval of the projects:
  - WSC Teton “Marsh” Wetland $1,500,000 private funds
  - WSC Stevens Hall 2nd floor renovation $400,000 private funds
  - WSC Frontier Hall repair $400,000 local funds
  - WSC Crighton Hall renovation $400,000 private funds
  - UND EERC Fuel Storage $700,000 federal funds
  - NDSU R Lot Phase II reconstruction $1,600,000 local funds
  - NDSU AR lot reconstruction $550,000 local funds
  - NDSU Memorial Union Dining expansion $1,450,000 local funds
  - NDSU RDC Kitchen Renovation & Roof $2,000,000 local funds
  - NDSU Reed Hall Low Rise Lav Phase V $1,300,000 local funds
  - NDSU health plan partial boiler tube replace $400,000 local funds ($200,000) State funds ($200,000)
- Approve increase for DCB Thatcher Hall Mechanical Upgrades from $769,500 to $798,694, an increase of $29,194 from state appropriated funds. Further, authorize DCB to request a $29,194 general fund appropriation from the 64th legislative assembly for the additional funds for Thatcher Hall Mechanical Upgrades as well as a $36,800 state general fund appropriation for maintenance replacement of a water heater in Thatcher Hall.

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

McEwen moved, Shaft seconded, to approve other budget and finance items, as follows:

- Authorization to extend the 2009 approval of the Master Governmental Lease-Purchase Agreement (No. 337298) with Wells Fargo Bank, N.A., subject to a maximum financing rate of 7%. The Master Governmental Lease-Purchase Agreement (No. 337298) shall be effective until terminated in writing by the chancellor.
• Ratify Chancellor’s interim approval to proceed with MaSU Health and Physical Education Recreation (HPER) Facility, at $5,510,000 from 2013-15 general fund appropriations.

• Authorize UND to proceed with installation of fire protection systems in Bek Hall, a residence hall facility, at an estimated cost of $1,575,000 to be funded from local funds.

• Authorize UND to proceed with general renovation work including electrical upgrades to the existing campus electrical distribution infrastructure (circuit 4) at an estimated cost of $825,000 to be funded from 13-15 state capital assets funding.

• Authorize UND to proceed with installation of replacement elevators within the existing School of Medicine and Health Sciences (SMHS), at an estimated cost of $800,000 to be funded from 13-15 state capital assets funding.

• Authorize NDSU to increase Stevens Hall partial renovation by $370,000 from $750,000 to $1,120,000, to be funded with $135,173.36 of 2013-15 extraordinary repair funds and $234,826.64 from FY14 appropriated capital project designated reserves per SBHE policy 810.1.

• Authorize NDSU to proceed with the Expansion and Partial Reconstruction of R Lot at an estimated cost of $1,150,000 to be funded from parking local funds.

• Authorize NDSU to proceed with Phase 1 of the Bentson Bunker Fieldhouse Mechanical and Electrical systems upgrade at an estimated cost of $755,000 to be funded from FY14 appropriated capital project designated reserves per SBHE policy 810.1.

• Authorize MaSU to proceed with the partial renovation of Lewy Lee Fieldhouse in the amount of $429,000 to be funded from $154,000 13-15 state deferred maintenance pool funding $275,000 from FY14 appropriated capital project designated reserves per SBHE policy 810.1.

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

Mr. McEwen stated that the SBHE Academic and Student Affairs Committee recommends approval for the following academics:

Stage II -- New Programs

• Dakota College at Bottineau’s request for a new program via on-campus and distance delivery: Certificate Program and A.A.S. in Aquaponics, (CIP Code 01.0308), effective fall 2015.

Stage II – Organizational Change

• Mayville State University’s request for an organizational change: From Division of Education and Psychology to Division of Education, effective fall 2016.

• North Dakota State University’s request for an organizational change: From College of Pharmacy, Nursing, and Allied Science to College of Health Professions, effective spring 2015.

• North Dakota State University’s request for an organizational change: From Department of Nursing to School of Nursing, effective spring 2015.

• North Dakota State University’s request for an organizational change: From College of Pharmacy to School of Pharmacy, effective spring 2015.
• North Dakota State University’s request for an organizational change: From MPH Master of Public Health program housed within Department of Pharmacy Practice to Department of Public Health (stand-alone department), effective spring 2015.

• University of North Dakota’s request for an organizational change to establish a new department: Department of Basic Science, effective summer 2015.

• University of North Dakota’s request for an organizational change to establish a new department: Department of Geriatrics, effective summer 2015.

• University of North Dakota’s request for an organizational change to establish a new department: Department of Medical Laboratory Science, effective summer 2015.

• University of North Dakota’s request for an organizational change to establish a new department: Department of Neurology, effective summer 2015.

• University of North Dakota’s request for an organizational change to establish a new department: Department of Physician Assistant Studies, effective summer 2015.

• University of North Dakota’s request for an organizational change to establish a new department: Department of Population Health, effective summer 2015.

• University of North Dakota’s request for an organizational change to establish a new department: Department of Psychiatry and Behavioral Science, effective summer 2015.

• University of North Dakota’s request for an organizational change to terminate a department: Department of Anatomy and Cell Biology, effective summer 2015.

• University of North Dakota’s request for an organizational change to terminate a department: Department of Biochemistry and Molecular Biology, effective summer 2015.

• University of North Dakota’s request for an organizational change to terminate a department: Department of Clinical Neuroscience, effective summer 2015.

• University of North Dakota’s request for an organizational change to terminate a department: Department of Microbiology and Immunology, effective summer 2015.

• University of North Dakota’s request for an organizational change to terminate a department: Department of Pharmacology, Physiology, and Therapeutics, effective summer 2015.

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

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

Policy
Ms. Goulet explained proposed amendments to policy 840 regarding contract reviews.

Neset moved, Shaft seconded, to approve first reading of amendments to policy 840.

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

Motor Pool Policies
Mr. Fernando updated the Board on the concerns faculty have regarding motor pool policies:
• Policies restrict use by outside stakeholders
• Use is prohibited for personal purposes, even during a long trip (i.e. shopping, evening activities, or visits to family)
• Users cannot take the state vehicle home
• Users must pass an exam and/or driving course
• Reduced collaboration between faculty in the system
• Limitations for international students
• Denial to student clubs, sports clubs and other important academic organizations
• Activities must be in the syllabus

Dr. Skogen requested that Mr. Fernando send the documentation to Ms. Goulet, legal counsel for NDUS, for further consideration.

McEwen moved to adjourn.

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

Approved on May 14, 2015 by the State Board of Higher Education.