North Dakota State Board of Higher Education
Meeting Minutes
February 23, 2017

The State Board of Higher Education met on Thursday, February 23, at 8:30 a.m. CT, Bismarck State College, National Energy Center of Excellence, Room 335, 1200 Schafer Street.

Chair Neset called the meeting to order at 8:30 a.m. CT.

1. Agenda
Chair Neset noted guest speakers for the Workforce Education Advisory Council and the Textbook Costs and Solutions Presentations will be moved up in the agenda due to time constraints.

Ness moved, Melicher seconded, to approve the agenda.

Morton, Evans, Stemen, Ness, Hacker, Melicher, and Neset voted yes.

Members participating:
Ms. Kathleen Neset, Chair
Mr. Greg Stemen
Dr. Kevin Melicher
Mr. Mike Ness
Dr. Ernst Pijining, Faculty Adviser

Mr. Don Morton, Vice Chair
Mr. Nick Hacker
Ms. Kari Reichert
Mr. Nick Evans
Mr. Andy Wakeford, Staff Adviser

Chancellor present: Dr. Mark Hagerott

Institution Presidents present:
Dr. Doug Darling, President, LRSC
Dr. Jerry Migler, Dean, DCB
Dr. Beth Ingram, Provost, NDSU
Dr. Tom Dilorenzo, VPAA/Provost, UND
Dr. Larry C. Skogen, President, BSC
Dr. Steve Shirley, President, MiSU
Dr. Tisa Mason, President, VCSU
Dr. Tom Mitzel, President, DSU
Dr. John Miller, Interim President, WSC
Dr. John Richman, President, NDSCS
Dr. Gary Hagen, President, MaSU

NDUS senior staff participating:
Dr. Lisa Feldner, Chief of Staff
Dr. Richard Rothaus, Vice Chancellor for Academic and Student Affairs
Governor Burgum Presentation
Governor Burgum addressed the Board. He spoke to the importance of higher education, the budget and meeting the workforce needs. He encouraged reinvention to meet the accelerating change in the current environment.

Strategic Plan
Richard Rothaus gave an overview on the indicators for goal two of the Strategic Plan. The goal is to provide programs people want, where and when they need them. The Board will update the Strategic Plan and their four goals at their June 27th meeting.

Ryan Jockers presented the Strategic Planning On-line (SPOL) software. It is the software used to measure institutional effectiveness and show the status of each goal.

2. Policy 605.3 Sub-Committee Report
The Committee reviewed the proposed language from Council of College Faculties (CCF) as follows: “The Council of College Faculties (CCF) of the North Dakota University System (NDUS), acting in the best interests of the faculty members at the 11 institutions comprising NDUS, the reputations of the institutions in which we work, the economic prosperity of the communities in which we live, the investment in human capital for the state in which we serve, and the intellectual vocation to scholarship which we hold dear, urge the State Board of Higher Education to maintain the standards of tenure that serve as best practices for all of higher education and to abandon any plans to change SBHE Policy 605.3. Changes to this policy will cause irreparable damage to the credibility of higher education in North Dakota.”

Committee members had an in-depth discussion and considered several different amendments.

The Committee indicated the following were not recommendations, but are intended for discussion points for the full Board to consider. These items are solely based from a budget stand point. They noted there is no intent to remove tenure. The amendments to the policy would allow flexibility for the campuses to address the loss of appropriations in their budgets:

- In the case of loss of appropriations, tenured faculty would be given a minimum, of a 180-day notification;
- In the case of financial exigency (insolvency), tenured faculty would be given a 90-day notification;
• Exempt NDSU and UND from any changes to policy 605.3;
• Defining loss of appropriations, using it as a term in policy where applicable, and differentiating it from financial exigency;
• Include a sunset clause for loss of appropriations (June 30, 2019);
• All the other requirements (loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses) will stay at 365 days.

Public Comment regarding Policy 605.3
Faculty and staff spoke in opposition to changes to policy 605.3.

3. **2nd Reading, Policy 605.3 - Nonrenewal, Termination or Dismissal of Faculty**
   Original motion with 1st amendment approved at the January 26, 2017, meeting:

   **Section 6**
   An institution may terminate an appointment of a tenured faculty member following a determination by the Board that a financial exigency exists which requires such action at an institution or institutions, or upon determination by the institution that such action is necessary because of loss of legislative appropriations, loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses. In such cases, significant consideration shall be given to length of service and tenure status in the retention of faculty members within the affected academic unit or program area, curriculum requirements, professional achievements, breadth of competence, and equal employment opportunity. A tenured faculty member terminated pursuant to this subsection shall be given written notice of termination, including the reason(s) for the action, at least twelve months *ninety days* prior to the date of termination. Each institution shall establish procedures for implementing this policy.

   **6a**
   A tenured faculty member given notice of termination under this section may request that the institution circulate his or her vita to other academic units or program areas within the institution. In addition, the institution shall ensure that fair consideration is given to the faculty member, during the period of the terminal appointment, for vacant academic positions in the employing institution for which the faculty member is qualified. The faculty within any academic unit or program area shall have the major responsibility in determining qualifications for appointment therein. If a tenured faculty member accepts an appointment in a different academic unit or program area, the faculty member shall retain his or her tenure status, subject to approval of the Board.

   Hacker moved, Morton seconded, to approve 2nd reading of policy with the following 2nd amendments to section 6 and 6a:

   **Section 6**
A tenured faculty member terminated pursuant to Board declared financial exigency shall be given written notice of termination at least 90 days prior to the date of termination. A tenured faculty member terminated pursuant to loss of legislative appropriation shall be given written notice of termination at least 180 days prior to the date of termination. A tenured faculty member terminated pursuant to loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses shall be given written notice of termination at least 12 months prior to the date of termination. In such cases as described in this subsection, significant consideration shall be given to length of service and tenure status in the retention of faculty members within the affected academic unit or program area, curriculum requirements, professional achievements, breadth of competence, and equal employment opportunity. A tenured faculty member terminated pursuant to this subsection shall be given written notice of termination, including the reason(s) for the action, at least twelve months prior to the date of termination. Each institution shall establish procedures for implementing this policy.

Section 6a
A tenured faculty member given notice of termination under this section may request that the institution circulate his or her vita to other academic units or program areas within the institutions of the NDUS system. In addition, the institutions shall ensure that fair consideration is given to the faculty member, during the period of the terminal appointment, for vacant academic positions in the employing institution for which the faculty member is qualified. The faculty within any academic unit or program area shall have the major responsibility in determining qualifications for appointment therein. If a tenured faculty member accepts an appointment in a different academic unit or program area, the faculty member shall retain his or her tenure status, subject to approval of the Board.

The Board continued to discuss and consider additional amendments to section 6.

Melicher moved, Ness seconded, to amend Mr. Hacker’s amendment, adding, the institution will have the authority to give 180-day notice to a tenured faculty member terminated pursuant to loss of legislative appropriation with Board approval.

Section 6
A tenured faculty member terminated pursuant to Board declared financial exigency shall be given written notice of termination at least 90 days prior to the date of termination. With the approval of the Board, the institution will have the authority to give 180-day notice to a tenured faculty member terminated pursuant to loss of legislative appropriation. This change to 180 days will be restored on or before June 30, 2019, to 12 months. A tenured faculty member terminated pursuant to loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses shall be given
written notice of termination at least 12 months prior to the date of termination. In such cases as described in this subsection, significant consideration shall be given to length of service and tenure status in the retention of faculty members within the affected academic unit or program area, curriculum requirements, professional achievements, breadth of competence, and equal employment opportunity. Each institution shall establish procedures for implementing this policy.

Melicher, Ness, Reichert and Evans voted yes. Morton, Stemen, Hacker and Neset voted no.

Motion failed.

Ness moved, Melicher seconded, to amend Mr. Hacker’s motion to include language stating the change to 180 days’ notice of termination will be restored on or before June 30, 2019, to 12 months.

Morton, Evans, Stemen, Ness, Hacker, Melicher, Reichert and Neset voted yes.

Section 6

A tenured faculty member terminated pursuant to Board declared financial exigency shall be given written notice of termination at least 90 days prior to the date of termination. A tenured faculty member terminated pursuant to loss of legislative appropriation shall be given written notice of termination at least 180 days prior to the date of termination. This change to 180 days will be restored on or before June 30, 2019, to 12 months. A tenured faculty member terminated pursuant to loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses shall be given written notice of termination at least 12 months prior to the date of termination. In such cases as described in this subsection, significant consideration shall be given to length of service and tenure status in the retention of faculty members within the affected academic unit or program area, curriculum requirements, professional achievements, breadth of competence, and equal employment opportunity. A tenured faculty member terminated pursuant to this subsection shall be given written notice of termination, including the reason(s) for the action, at least twelve months prior to the date of termination. Each institution shall establish procedures for implementing this policy.

Section 6a

A tenured faculty member given notice of termination under this section may request that the institution circulate his or her vita to other academic units or program areas within the institutions of the NDUS system. In addition, the institutions shall ensure that fair consideration is given to the faculty member, during the period of the terminal appointment, for vacant academic positions in the employing institutions for which the faculty member is qualified. The faculty within any academic unit or program area shall have the major responsibility in determining qualifications for appointment therein. If a tenured faculty member accepts an appointment in a different academic unit or program area, the
faculty member shall retain his or her tenure status, subject to approval of the Board.

Morton, Evans, Stemen, Ness, Hacker, Melicher and Neset voted yes. Reichert voted no.

Motion carries.

4. **MaSU Housing and Auxiliary Facilities Revenue Refunding Bonds**
   MaSU Authorization of a Resolution Approving:
   a) The issuance of not to exceed $3,000,000 State Board of Higher Education of the State of North Dakota, Mayville State University, Housing and Auxiliary Facilities Revenue Refunding Bonds, Series 2017A, for the purpose of refinancing the outstanding MaSU Housing and Auxiliary Facilities Revenue Bonds, Series 2010 (Build America Bonds), maturing on and after October 1, 2017, and paying the costs of issuance of the Series 2017A bonds;

   b) Authorize the execution of a Supplemental Indenture of Trust, Bond Purchase Agreement and Related Documents;

   c) Authorize the MaSU President and Vice President for Business Affairs to approve the sale of the bonds (Series 2017A) provided that the true interest rate not exceed 5%, provided the present value of the debt service savings is not less than 3%. The approximate final date upon which the principal amount of the obligation will mature or become payable is October 1, 2029; and

   d) Appoint the firm of Arntson Stewart Wegner PC as the bond counsel and AMKO Advisors, LLC (Independent Municipal Advisors to Government) as the municipal advisor.

Stemen moved, Melicher seconded, to approve the SBHE Budget, Finance, and Facilities Committee recommendation, agenda item 4.

Evans, Stemen, Ness, Morton, Hacker, Melicher, Reichert and Neset voted yes.

5. **NDSU Elevator Replacement**
   NDSU to proceed with the Elevator Replacement. A project at Reed Hall at an estimated cost of $279,000 to be funded from auxiliary local funds.

Stemen moved, Melicher seconded, to approve the SBHE Budget, Finance, and Facilities Committee recommendations, agenda items 4 and 5.

Evans, Stemen, Morton, Ness, Hacker, Melicher, Reichert and Neset voted yes.

6. **UND Former School of Medicine Repurpose**
   UND to proceed with various remodeling identified to repurpose the
former SMHS building at an estimated cost of $3,300,000 to be funded by $1.3 million in extraordinary repair funding and $2 million in appropriated funds. Approval of additional classroom space will only be considered after completion and approval of a strategic plan, as well as the portion of the master plan related to facility needs for programs.

Mr. Stemen indicated the Budget and Finance Committee discussed UND’s request to remodel the old medical school. The Committee members requested more information regarding various areas, such as, but not limited to space utilization and the funding dollars that will be used. Their request was met and meets their approval.

Stemen moved, Hacker seconded, to approve the SBHE Budget, Finance, and Facilities, agenda item 6.

Morton, Evans, Stemen, Ness, Hacker, Melicher, Reichert and Neset voted yes.

7. NDSU and UND Core Course Admission Standards
Ness provided historical background reporting that in 2015 the Board increased the number of high school core course requirements for admission to baccalaureate programs at UND and NDSU. Effective fall 2017, the minimum core course requirements were increased to 14 units of core course units at UND and NDSU. Effective 2018, the minimum core course requirements were to be increased to 15 units at both institutions. The additional unit(s) of coursework could be completed in any of the existing core course categories, world language (including foreign languages, Native American languages, or American Sign Language).

Since those proposed changes were approved, SBHE members received feedback from K-12 schools that the additional core course requirements competed with course offerings from which students had to choose—like career and technical education, business, and the arts.

Ness recommended retaining the requirement of the additional core course requirement at UND and NDSU effective fall 2017, but striking language requiring the two-additional high school core course requirements in 2018 that were to be required at UND and NDSU.

8. Governance Committee Update
Mr. Ness informed the Board the logistics and membership of the Committee It will be comprised of three Board members, two ex-officio (one being a President) and they will meet once a month to discuss topics, such as, review and process of Chancellor and President’s evaluations, Board Self-assessment, Board training and new Board member’s orientation and mentorships.

9. Audit Committee Update
Ms. Neset gave an update to the Board on the Audit Committee’s January and February’s meetings. On January 25, 2017, they reviewed and approved the State Auditor’s Office Draft Reports:

- Space Utilization Report – performance audit dated 1/3/17 on the Space Utilization study completed for the SBHE during the 13-15 biennium;
- NDUS Governance Communication report on Internal Control, Compliance and other matters – year ended 6/30/16, included 3 prior not implemented recommendations, and 4 informal recommendations.

On February 16, 2017, they discussed the following items:

- Non-Governmental Organizations, SBHE Policy 340.2 and the need to make changes to meet requirements of a prior not implemented audit recommendation.
- Draft 17-19 Biennial Audit Plan, the committee approval will be requested prior to 6/30/17.
- Introduced the Enterprise Risk Management (ERM) process. This is a process to be used by institutions to identify, assess, control and monitor risks to an institution’s main objectives.
- Draft 17-19 Biennial Compliance Plan.

10. Data Inconsistencies
Ms. Riedman reported that out of the twenty-five data inconsistencies that were identified, there is only five remaining. The five will take more time due to their complexity. She will continue to address the five and possibly have a phase two data inconsistencies report.

11. Legislative Update
Dr. Feldner and Ms. Dolan gave a status report on Legislative bills and the budget.

12. Chancellor’s Updates
Chancellor Hagerott gave an update regarding system initiatives, including, but not limited to working with the campuses on audit planning.

13. WEAC Presentation
Mark Anderson and Stephanie Davidson gave a presentation on the Workforce Education Advisory Council.

14. Textbook Costs and Solutions Presentation
Director of NDSU Bookstore, Carol Miller, gave an overview what they have done and future possibilities to save on textbook cost.

15. Council of Campus Faculty
Dr. Murphy gave an update to the Board from the college for campus faculty.

16. North Dakota Student Association
Mr. Dailey gave an update from North Dakota Student Association.
17. **Staff Senate**  
Mr. Wakeford gave an update from the Staff Senate.

**NDUS Foundation**  
Dr. Melicher gave an update on the NDUS Foundation and introduced a new form used to collect donations.

**Public Comment**  
No public comment.

18. **SBHE Meeting via Technology**  
Dustin Anderson explained the difference between Skype verses Interactive Video Network (IVN) for virtual Board meetings.

IVN was favored and will be the technology used when meetings are held via virtual means.

The meeting adjourned at 3:50.