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University of North Dakota

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APR 09 1992 Alice T. Clark-
Academic Affairs
Box 002

Minutes of the University Senate Meeting

April 2, 1992

1.

A meeting of the University Senate was held at 4:40 p.m. on Thursday, April 2, 1992, in room 7, Gamble Hall. Robert Kweit presided.

2.

The following members of the Senate were present:

Akers, Thomas	Henricksen, Mogens	Naismith, Donald P.
Antes, James	Hess, Carla Wulff	Nielsen, Monty E.
Beiswenger, Lyle	Hoffarth, Al	O'Donnell, Sheryl
Berg, Mark	Hunter, Susan	O'Kelly, Marcia
Bostrom, Donald	Irwin, Nathan	Owens, Thomas C.
Boyd, Robert	Iseminger, Gordon	Phillips, Monte
D'Andraia, Frank	Jacobsen, Bruce	Pynn, Ronald E.
Dallin, Stephanie	Johnson, A. William	Radonovich, Lewis
Dawes, Kenneth	Karner, Alan	Sanborn, Patricia
DeMers, Judy	Kweit, Robert W.	Schmitt, Sue
Devine, Gary	Lang, Gretchen	Schubert, George W.
Frein, George H.	Lawrence, W. Fred	Shubert, Elliot
Gott, Gary	Lewis, Robert	Vickrey, Barry
Hamerlik, Gerald	McElroy-Edwards, J.	Volden, Cecilia
Hampsten, Elizabeth	McKenzie, James	Williams, John A.
Harris, Mary	Moen, Janet Kelly	Zimmerman, Sonia
Hein, David	Munski, Douglas	

The following members of the Senate were absent:

Becker, Keith	Gard, Betty	Mikkelson, Mike
Bender, Myron	Heitkamp, Thomasine	Muus, Dan
Berg, Shane	Henry, Gordon	O'Kelly, Bernard
Clark, Alice T.	James, Edwin C.	Odegard, John
Clifford, Thomas J.	Jechort, Daniel	Poolman, James
Dahl, Ivan	Kantrud, Alan	Raposo, Jorge
Davis, W. Jeremy	Knull, Harvey R.	Tweton, D. Jerome
Elsinga, Lillian	Koozin, Timothy	Wilborn, Graciela
Engel, Dean	Lee, Randy H.	Winrich, Lonny
Franklin, Elizabeth	Lindholm, Lynn	Zellers, Kurt
Gabrynowicz, Joanne	Merrill, Lois J.	Zimney, Kory

3.

The Chair announced that 1) the next meeting of the Senate will be held at 3:00 p.m. on Thursday, April 30, as there will be a reception for President Clifford following the meeting, and 2) the Office of Instructional Development will present a conference on Assessment Practices: Problems and Solutions, on April 13-14 in the Memorial Union. Mr. McKenzie announced that Earl Bullhead, a former UND instructor, will perform at the Art Museum on April 3, and urged everyone to attend.

4.

There were no questions for the Question Period and the Chair proceeded to the Consent Calendar.

5.

Mr. Boyd moved approval of the annual report of the Continuing Education Committee. Mr. Johnson seconded the motion. There being no objection, the report was received and filed.

6.

Mr. Irwin moved approval of the annual report of the Intercollegiate Athletics Committee. The motion was seconded and there being no objection, the report was received and filed.

7.

Mr. Akers moved approval of the annual report of the Committee on Committees. Ms. DeMers seconded the motion. There being no objection, the report was received and filed.

8.

Mr. Dawes moved the recommendation of the Faculty Research Committee that the policy, "Guidelines on Misconduct in Scholarly Activities," be referred back to the Senate with the recommendation that the Senate appoint a committee to develop a new policy statement. It is further recommended, in order to remain in compliance with the federal regulations, that the current policy remain in effect until a new policy is adopted by the Senate. The motion was seconded, voted upon and carried unanimously.

9.

Mr. Dawes moved approval of the report of the Faculty Research Committee on the recommended Patent Review Policy. The motion was seconded, voted upon and carried unanimously. (See attachment #1.)

10.

Mr. Vickrey, Chair of the Committee on Committees, moved that agenda item # 11, the report on nominees for University Committees, be considered at this time. Mr. Irwin seconded the motion. The motion was voted upon and carried unanimously.

Mr. Vickrey presented the report on the slate of candidates for election to Senate Committee. The ballot for the committee to use as advisory in making its final recommendation, was distributed. He reported that the terms are staggered on the Academic Policies Committee since the Senate changed the number of faculty from four to five and the length of term from two to three years; and because of resignations, both the Honors Committee and the Student Academic Standards Committee are short one member.

Mr. Vickrey moved to extend the terms of one of the members on the Admissions Committee from 1993 to 1995 and one of the members of the Honors Committee from 1993 to 1994. Ms. Hess seconded the motion which was voted upon and carried unanimously. Mr. Johnson moved that the Committee on Committees appoint members to serve on the Honors Committee and the Student Academic Standards Committee. Mr. Schubert seconded the motion which was voted upon and carried by a vote of 48 for, one against and one abstaining. Mr. Vickrey asked that the name of Kathleen Gershman (CTL) be added to the nominations for the Library Committee. The Chair asked for nominations from the floor. Mr. Schubert nominated Kevin Fire (A&S) to serve on the Intercollegiate Athletics Committee. Ms. Hess seconded the motion. Mr. Vickrey moved that the Senate proceed to mark the ballots to be counted and presented in a report at the next meeting. Mr. Radonovich seconded the motion which was voted upon and carried unanimously.

11.

Mr. Johnson, Chair of the ad hoc committee to study the proposed Constitution of the North Dakota University System Council of College Faculties, presented some background regarding the Council and the Constitution. The Council has been acting as a consultant body and now it is a policy recommending body which elects a representative to the State Board as a non-voting member. This makes the university's representation and voice crucial. The two largest schools in the system, with 50% of the faculty, have less than 1/3 of the vote. Mr. Johnson moved that the Senate not concur with the proposal to approve the Constitution. Mr. Pynn seconded the motion. Discussion followed. A vote was taken and the motion not to concur was carried by a vote of 37 for, 6 against and 4 abstaining.

12.

Bruce Eberhardt, Chair of the Admissions Committee, presented the following application and appeals deadlines for admission for the Fall of 1993 when the core curriculum requirements go into effect:

<u>TERM</u>	<u>APPLICATION</u>	<u>APPEAL</u>
Fall	July 1	August 1
Spring	November 15	December 15
Summer	April 15	May 15

Ms. DeMers moved approval of the deadline dates. Mr. Munski seconded the motion. Discussion followed. The Chair indicated the 5:30 adjournment time was approaching and Ms. Hampsten moved that the meeting continue for 15 minutes. Mr. Johnson seconded the motion which was voted upon and carried by a vote of 41 for and one against. Discussion continued. A vote was taken and the motion carried with 22 voting for, 16 against, and 4 abstaining.

13.

There being no objection, the meeting adjourned at 5:45 p.m.

Monty Nielsen
Secretary

4.3 PATENTS

4.3.1 STATE BOARD OF HIGHER EDUCATION PATENTS POLICY

(Transfer policy from Section 611.2)

4.3.2 UND PATENT REVIEW PROCEDURE

The University of North Dakota encourages the transfer of technology from the University to the private sector via appropriate commercialization strategies. Accordingly, all employees of the University who create patentable technologies (hereafter the Inventor(s)) through the use of University facilities, time or materials assume obligations and rewards commensurate with this Procedure and the State Board of Higher Education policy (Art. 4.3.1). UND vests the principal responsibility for initiating, developing, commercializing, and administering patents with the University Inventor(s) and his/her respective College/School/Research/Service Agency (hereafter the "Administrative Unit").

Patentable University innovations may be derived through university activities such as sponsored projects, internal University assignments, or personal design/development projects which utilize University resources. Funding may come from cooperating agencies such as federal and/or state government agencies or private/industrial sponsors, or the work may be performed with University resources or some combination thereof. In accordance with ND Century Code 47-28-01, all such inventions "shall inure to and be taken out by or assigned to the respective state institution of higher learning in accordance with a general policy established by each institution of higher learning with the approval of the state board of higher education."

Subject to overriding obligations of the institution pursuant to gifts, grants, contracts, or other agreements with cooperating agencies, the University of North Dakota encourages their Administrative Units to transfer University-derived patent rights to independent foundations (ND Century Code 47-28-01) or private sector entities in order to facilitate commercialization while protecting the rights of the Inventor.

Each Administrative Unit significantly engaged in patentable activities shall establish a management process for facilitating the patenting and commercialization of technologies. The University President, or designee, shall delegate the responsibility for facilitating the review and commercialization of those patents coming out of administrative units where no formal management process for patents has been established.

Two assistance organizations are available to facilitate the handling of patents and their commercialization. The Center for Innovation and Business Development (CIBD) is an independent not-for-profit North Dakota foundation offering technology commercialization services to both University and private parties. CIBD can assist in patent disclosure evaluations, market assessment, and commercialization strategy development. The University also has a non-exclusive contract for patent development services with Research Corporation Technologies (RCT) of Tucson, Arizona. RCT is available to University inventors and administrators as a technology brokerage and investment company. RCT will take on patent assignments from the University under a royalty-sharing agreement to facilitate commercialization of select technologies. RCT is active in the development of pharmaceuticals, materials, chemicals, and biotechnologies.

The Office of Research and Program Development (ORPD) serves as the University's contact for interpretation of University patent policy review procedure and records maintenance.

The following checklist shall serve as a guide to University Inventor(s) and Administrative Units in meeting the reporting requirements of cooperating agencies and the requirements of the North Dakota State Board of Higher Education Patent Policy. Each Administrative Unit shall maintain a permanent file referencing the pertinent steps of this process and shall be responsible for all background correspondence necessary to secure a patent and for its defense in a court of law.

1. **Contract Review** - Prior to executing a contract award, the ORPD and the Administrative Unit shall ascertain that intellectual property clauses in sponsored projects are acceptable to the Principal Investigator(s), the Administrative Unit, the University and are consistent with policies of the State Board of Higher Education. The University's Principal Investigator and Administrative Unit shall

verify that the terms of a contract will not willfully or knowingly infringe on any background technology on which the University has previously secured a patent or on any proprietary agreement which the University may have with another party.

2. **University Patent Searches** - The UND Chester Fritz Patent & Trademark Depository Library offers a preliminary review of active U.S. patents at no cost to Inventors. Principal Investigators and/or Inventor(s) are encouraged to use this resource in proposal preparation and early in a research program to document current patent coverage in an area of interest.
3. **Documentation and Tracking** - University Inventor(s) are responsible for recording and maintaining the discovery records of all potentially patentable discoveries derived through University activity. Bound, dated, witnessed documentation is the encouraged procedure.
4. **Enabling Disclosure** - A University Inventor(s) shall make an "enabling disclosure" to the appropriate Administrative Unit at the earliest possible time after recognizing a potentially patentable discovery. Such a disclosure consists of 1) a description of the discovery, 2) citation of publications containing partial or complete descriptions, 3) an overview of the advantages of the discovery over other known competitive technologies, 4) identification of all individuals to which this discovery is known, 5) verification of the first documentation of the discovery, 6) the actual Inventor(s), and 7) a citation of any cooperating agencies funding the development of the discovery.
5. **Internal Evaluation** - The Administrative Unit shall review each discovery before committing University or other funds in the pursuit of a patent. Such an evaluation should consider the discovery's market potential, potential licensees, financial return, obligation to sponsoring parties, and other factors impacting the investment of time and funds to complete the patent application process. Subsequent to a decision to proceed with a patent application, (1) the official University patent file shall contain documentation identifying the source of funds used to cover the patenting costs; (2) the Administrative Unit shall notify the Office of Grants and Contracts of its intent pursue a patent application, and (3) the Office of Grants and Contracts, or its designee, shall implement any obligatory patent filing notices to cooperating agencies.
6. **Formal Patent Search** - The Administrative Unit shall secure the necessary professional services to conduct and evaluate a formal patent search based on the "Enabling Disclosure."
7. **Second Internal Evaluation** - Upon receipt of a patent search evaluation, the Inventor(s) and the management of the Administrative Unit shall determine if additional funds will be committed to pursue a formal patent application. If at any time, the decision is made to halt the patent application process, ownership of the discovery shall revert to the inventor via a letter of release of all University rights and obligations subject to any University obligations to a cooperating agency.
8. **Patent Application** - The Administrative Unit shall track the process of the patent application and see that all necessary technical, assignment, and contractor acknowledgement information is provided to the patent attorney during the application and examination period by the Patent and Trademark Office. The office of Grants and Contracts, or its designee, shall provide a copy of the patent application to all pertinent cooperating agencies.
9. **Patent Assignment** - The University authorizes Administrative Units to establish a means of administering and managing patent assets which (1) expedites their commercialization, (2) provides means for defense of a patent, and (3) provides financial returns to the Inventor(s) the Administrative Unit and the University. This may typically involve the assignment of patent titles to commercialization organizations such as independent foundations, private companies, and technology development corporations. The University President, or designee, shall sign appropriate documentation acknowledging the assignment of a University patent to another organization.
10. **Fund Distribution Agreement** - Documentation of the distribution of funds to the Inventor(s), Inventor(s) Department, Administrative Unit, University via President's Office or designee, any cooperating agencies, and other parties should be prepared and signed by all parties at the earliest

possible time, typically at the time of a patent assignment or at the time the patent issues. The Inventor(s) shall receive no less than 30% of the net proceeds on an invention. (ND Century Code 47-28-02.)

11. **The Patent Document** - Each Administrative Unit shall maintain a permanent filing and storage system for the original patent document. A copy of the document should be provided to any cooperating agency and the Inventor(s).
12. **Commercialization** - The Administrative Unit shall outline a commercialization plan in cooperation with the Inventor(s). A copy of this plan and annual progress reports shall be provided the Inventor(s), the University, and any applicable cooperating agency. The principal elements of this plan shall be incorporated into any commercialization agreement between the University of North Dakota and any commercialization organization.

Filing and Reporting Requirements - As necessary to protect the interests of the Inventor(s), the Administrative Unit, and the University, the records supporting a patent application and appropriate documents with any commercialization organization may be maintained confidential under ND Century Code 15-10-17 and the policy of the State Board of Higher Education. At the minimum, the official University patent file should contain copies of the following documents. The Inventor(s) shall be provided copies of each.

1. Any obligatory contract or grant terms and conditions under which the discovery was conceived or developed.
2. Initial records of invention (i.e. notebook references, drawings, sketches, etc.).
3. Any formal records of invention required by sponsors.
4. Disclosure documents prepared by the Inventor(s).
5. Disclosure documents submitted to a patent attorney.
6. Documentation of an Administrative Unit's decision to proceed in securing a patent, the source(s) of funds used in covering the costs, and the patent attorney or other professional service involved in securing the patent.
7. The patent attorney's findings and assessment from a preliminary patent search.
8. The final draft of a patent application as filed.
9. Any patent assignment.
10. A disbursement of funds agreement identifying financial returns to the Inventor(s), Inventor(s)' University department, Administrative Unit, and any patent development/ commercialization entity.
11. The patent document.
12. Any licenses, equity positions, or other commercialization documents which determine financial returns to the Inventor(s) and the institution or its entities.
13. Obligatory confirmatory licenses to any sponsor.
14. Documentation of any abandonment of the patent by the Administrative Unit, any agreements transferring title back to the Inventor(s) or any obligatory transfer of title to the sponsor.