

North Dakota State Board of Higher Education

May 23, 2023, Meeting Minutes

The State Board of Higher Education met on Tuesday, May 23, at 8:00 a.m., at Bismarck State College, National Center of Excellence, Room 335, 1200 Schafer Street.

Chair Ryan called the meeting to order at 9:20 a.m. CT.

SBHE Members participating:

Dr. Casey Ryan, Chair

Ms. Danita Bye

Ms. Sadie Hanson

Mr. Kevin Black

Dr. Lisa Montplaisir, Faculty Advisor

Mr. Tim Mihalick, Vice Chair

Mr. Jeffry Volk

Mr. Nick Hacker

Dr. John Warford

Mr. Michael Linnell, Staff Advisor

Incoming Board Member: Mr. Curtis Biller

Chancellor present: Dr. Mark Hagerott

Institution Representatives Present:

Dr. David Cook, President, NDSU

Dr. Steve Shirley, President, MiSU

Dr. Bernell Hirning, President, WSC

Dr. Carmen Simone, Dean, DCB

Dr. Doug Darling, President, LRSC

Dr. Rod Flanigan, President, NDSCS

Dr. Doug Jensen, President, BSC

Dr. John Miller, DSU

Dr. Brian Van Horn, MaSU

Dr. Andy Armacost, President, UND

Dr. Alan LaFave, President, VCSU

NDUS Senior Staff Participating:

Ms. Lisa Johnson, NDUS

Mr. Darin King, CTS

Ms. Terry Meyer, NDUS

Ms. Kristie Hetzler, NDUS

Mr. Jerry Rostad, NDUS

Mr. Chris Pieske, NDUS

Mr. David Krebsbach, NDUS

Ms. Jane Grinde, NDUS

Others Participating:

Ms. Meredith Larson, AG's Office

SBHE May 22nd Retreat continued, items 1 and 2.

1. **SBHE Forms Training (8:00 – 8:20)**

Ms. Sharon Schwartzbauer and Ms. Mindy Sturn provided documentation and training on the electronic forms and process for Board submission of time and reimbursement.

2. **Tenure Review (8:20 – 9:25)**

Dr. Lisa Montplaisir provided the Board members with an informative presentation on post tenure reviews, she noted that the information provided isn't specific to any or all NDUS institutions, it is based on her experience and knowledge. Dr. Montplaisir indicated that there can be variables, specific components, and other factors that institutions use in a tenure review.

3. **Agenda**

Warford moved, Hanson seconded, to approve the agenda, as presented.

Bye, Hanson, Volk, Mihalick, Hacker, Black, and Ryan voted yes. Motion passed.

Board Consent Agenda:

SBHE Budget and Finance Committee

4. NDSU to proceed with demolishing the Agricultural and Biosystems Engineering building at an estimated cost of \$1,000,000 to be funded from Tier Funding and other appropriated or local funds. Per SBHE Policy 902.3.
5. UND requests exception to SBHE Policy 805.1 to charge tuition rates for masters in Public Health to 150 percent for international students and undergraduate Medical Lab Science degree to 100 percent of residential rates for Minnesota Residents, other out-of-state U.S. residents, Canadian residents of Saskatchewan and Manitoba, and international students.
6. LRSC Ratify Chancellor's approval of the transfer of \$500,000 and \$68,491.35, respectively, from the NDUS System Office Tier III capital building fund appropriation line.
7. DCB Ratify Chancellor's approval of the transfer of \$106,064, \$500,000, \$106,064, and \$500,000, respectively, of NDUS System Office Tier II and Tier III capital building fund and NDUS Capital Building Fund at the State Investment Board to the DCB's capital building fund appropriation line.
8. 2023-25 Biennial Budget Guidelines.

Board member Hacker requested new board member orientation, item nine, be moved from the consent agenda to individual action items.

Board Member Volk requested the timeline for Chancellor's evaluation, item ten, be moved from the consent agenda to individual action items.

Bye moved, Warford seconded, to approve the amended consent agenda, items 4 – 8, as presented.

Warford, Bye, Hanson, Volk, Mihalick, Hacker, Black, and Ryan voted yes. Motion passed.

9. **1st Reading, SBHE Policy 100.6, Authority & Responsibility of the State Board of Higher Education**

Mr. Jerry Rostad provided a verbal update on changes made between the RCG meeting and full Board; the Board members did not have access to the most current version. Board members requested Policy 100.6 be re-routed back to the RGC (committee) to confirm their recommended amendments; the Board will re-visit the policy at their June meeting.

No action taken.

10. **1st Reading, SBHE Policy 311, Public Records**

Mr. Jerry Rostad reviewed proposed amendments to Policy 311; the amendments were made to align with new legislation. Mr. Volk raised concerns regarding access to past records. Assistant Attorney General, Meredith Larson clarified that prior to the change in legislation, Board members requesting records preceding their service on the board would be a member of the public, executive sessions and other specific types of records are not open to the public. The change in law now states that individuals serving as a Board member are allowed access to all records, while they are actively a board member.

Bye moved, Black seconded, to approve 1st reading of Policy 311, as presented.

Volk, Mihalick, Hacker, Black, Warford, Bye, Hanson, and Ryan voted yes. Motion passed.

11. 2nd Reading, SBHE Policy 461, Digital Literacy

Ms. Lisa Johnson reviewed proposed changes between the first and second reading of Policy 461. The Board discussed and made the following amendment to section four:

4. Learning outcomes include:

- a. Evaluate and interpret the accuracy, credibility, and relevance of digital information;
- b. Describe the ways in which society and culture interact with digital technology;
- c. Demonstrate the knowledge to use digital technology safely and ethically at a basic level;
- ~~d. Exhibit the ability to create, analyze, critique, and/or edit digital content~~
- e. Understand the applicability of digital literacy and artificial intelligence to the current and emerging workforce.

Black moved, Hacker seconded, to approve 2nd reading of Policy 461, with the amendment in section four.

Volk, Mihalick, Hacker, Black, Warford, Bye, Hanson, and Ryan voted yes. Motion passed.

The Board made an administrative request; new Policy 461, Digital Literacy, will be reviewed by the Board in May 2024. The system office agreed.

12. 2nd Reading, SBHE Policy 330, Policy Introduction, Amendment, Passage

Mihalick moved, Bye seconded, to approve 2nd reading and final adoption of Policy 330, as presented.

Volk, Mihalick, Hacker, Black, Warford, Bye, Hanson, and Ryan voted yes. Motion passed.

13. 2nd Reading, SBHE Policy 302.3, Budget and Finance Committee

Mr. Jerry Rostad reviewed proposed amendments to Policy 302.3 from first to second reading; the change was in section 4(i)-- Information technology matters that could have a significant financial impact on the NDUS.

Black moved, Warford seconded, to approve 2nd reading and final adoption of Policy 302.3, as presented.

Black, Warford, Bye, Volk, Mihalick, Hacker, Hanson, and Ryan voted yes. Motion passed.

14. 2nd Reading, SBHE Policy 302.7, Research and Governance Committee

Mr. Rostad explained that the only other edit from 1st read to 2nd read was an administrative error; in section four, the language stating ~~the term will be begin in an odd-numbered year~~, should have been struck out in the version recommended by RGC and presented in April.

Mihalick moved, Warford seconded, to approve 2nd reading and final adoption Policy 302.7, as presented.

Warford, Bye, Volk, Mihalick, Hacker, Black, Hanson, and Ryan voted yes. Motion passed.

15. DCB Joint Powers Agreement with the City of Minot

Black moved, Mihalick seconded, to authorize DCB to enter into a Joint Powers Agreement (JPA) with the City of Minot, North Dakota to provide additional financing for the renovation of the former Trinity Health Building, currently owned by the MSU Development Foundation into a Career and Technical Facility, as presented.

Hacker, Black, Warford, Volk, Mihalick, Bye, Hanson, and Ryan voted yes. Motion passed.

16. SBHE Self-Assessment Priorities

Co-chair of the Research and Governance Committee, Ms. Bye reviewed the priorities identified through the Board's self-assessment. She stated that the committee will discuss the next steps at their June meeting, and committee members will report back to the full Board.

Bye moved, Warford seconded, to approve the SBHE Self-Assessment priorities, as presented.

Warford, Bye, Volk, Mihalick, Hacker, Black Hanson, and Ryan voted yes. Motion passed.

17. Nominations for Chair, Vice Chair, and Executive Secretary (Policy 310.2).

Chair Ryan opened the floor for nominations for Board Chair effective July 1, 2023.

Member Hacker nominated Mr. Tim Mihalick for Board Chair, effective July 1, 2023. No other nominations were made; Mr. Mihalick accepted the nomination.

Black moved, Bye seconded, to close nominations for Board Chair.

Warford, Bye, Volk, Mihalick, Hacker, Black, Hanson, and Ryan voted yes. Motion passed.

Member Bye nominated Dr. John Warford for Vice Chair, effective July 1, 2023. No other nominations were made; Dr. Warford accepted the nomination.

Hacker moved, Black seconded, to close nominations for Vice Chair.

Volk, Mihalick, Hacker, Black, Warford, Bye, Hanson, and Ryan voted yes. Motion passed.

Volk moved, Warford seconded, to approve Ms. Terry Meyer to continue as Board Secretary.

Volk, Mihalick, Hacker, Black, Warford, Bye, Hanson, and Ryan voted yes. Motion passed.

New Board Member Orientation

Mr. Hacker suggested including subject matters that SBHE Committees/board review annually and items that have historic context and repetitious discussions that relate to present discussions/challengers that have been previously discussed and/or acted on by the Board at that time. The system office does incorporate an index of materials, they also follow up with Board members approximately two to three months after their term begins.

Bye moved, Warford seconded, to approve the new Board Member orientation, as presented.

Volk, Mihalick, Hacker, Black, Warford, Bye, Hanson, and Ryan voted yes. Motion passed.

Chancellor's Evaluation

Member Volk clarified a minor administrative error; the system office noted and will update. The Board discussed the process and timeline for the Chancellor's evaluation, specifically the inputs and information collected.

Bye moved, Hanson seconded, to approve the Chancellor's Evaluation timeline.

Volk, Mihalick, Hacker, Black, Warford, Bye, Hanson, and Ryan voted yes. Motion passed.

Committee Chairs provided the following reports:

- 18. SBHE Academic and Student Affairs Committee by Dr. John Warford.
- 19. SBHE Research and Governance Committee by Dr. Casey Ryan and Ms. Danita Bye.
- 20. SBHE Budget and Finance Committee by Mr. Tim Mihalick.
- 21. SBHE Audit Committee by Mr. Nick Hacker.
- 22. SBHE Efficiency and Opportunity Ad Hoc Committee by Mr. Nick Hacker.

Chancellor Report

- 23. Legislative Recap (HB1003, SB2015, among others) by Chancellor Hagerott and Mr. David Krebsbach.
- 24. Update on Regional Tech Hubs by Chancellor Hagerott.

Other Reports:

- 25. NDSA by Ms. Sadie Hanson.
- 26. CCF by Dr. Lisa Montplaisir.
- 27. Staff Senate by Mr. Michael Linnell.
- 28. Public Comment – no public comment made.
- 29. Assessment of Meeting and Future Agenda Items.
- 30. Motion to Adjourn.

The meeting adjourned at 11:05 a.m. CT

Approved September 28, 2023.

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Summary of Proposed Action State Board of Higher Education Meeting – May 23, 2023

1. **Issue:** NDSU wishes to proceed with demolishing the Agricultural and Biosystems Engineering building.
2. **Proposed actions or motion:** Authorize NDSU to proceed with demolishing the Agricultural and Biosystems Engineering building at an estimated cost of \$1,000,000 to be funded from Tier Funding and other appropriated or local funds. Per SBHE Policy 902.3.
3. **Background information:** The Agricultural and Biosystems Engineering Building (originally Agricultural Engineering) was erected in 1950 for teaching and research in agricultural engineering. A two-story addition was built in 1961. Today, the building houses the Agricultural and Biosystems Engineering Department. The ABEN building has deferred maintenance that exceeds the 65% threshold established by the NDUS that prompts demolition instead of repairs.

The ABEN building occupants will be moved out of the building, and into Ladd Hall and a portion of the Ag Service Center. Then they will be moved into the new engineering building (if approved by Legislative Assembly and SBHE).

4. **Financial implications:** The project will be funded from Tier Funding and other appropriated or local funds, which are sufficient, available for use, and include no unrestricted gift funds. Significant deferred maintenance and future operating costs for ABEN will be eliminated.
5. **Legal/policy issues or implications:** The NDSU 2022 Campus Master Plan, approved by the SBHE May 26, 2022, includes several sections that are directly related to this project.
6. **Academic issues or implications:** None
7. **Review Process:** University System office staff.
8. **Attachments:** Agenda Item
9. **Contact information:** Bruce Bollinger, VP for Finance and Administration, 701/231-8412, Bruce.Bollinger@ndsu.edu
10. **Chancellor's recommendation:** Chancellor Hagerott recommends approval.

North Dakota State University, May 24-25, 2023

REQUESTED ACTION

*Authorize NDSU to proceed with **demolishing the Agricultural and Biosystems Engineering building** at an estimated cost of \$1,000,000 to be funded from Tier Funding and other appropriated or local funds. Per SBHE Policy 902.3.*

Project Description

The Agricultural and Biosystems Engineering building (originally Agricultural Engineering) was erected in 1950 for teaching and research in agricultural engineering. The completed building measured 90 feet by 97 feet. For a short period of time, the Mechanical and Civil Engineering Departments had laboratories which were also housed in the building. A two-story addition was built in 1961 at the cost of \$110,000. Today, the building houses the Agricultural and Biosystems Engineering Department.

The ABEN building has deferred maintenance that exceeds the 65% threshold established by the NDUS that prompts demolition instead of repairs. Examples include:

- Mechanical and electrical systems are beyond their useful life.
- There is significant asbestos abatement needed.
- The building has multiple levels but lacks elevator access – not in compliance with ADA
- Bathrooms do not meet current ADA codes.
- Finishes such as flooring, paint, ceiling, are beyond their useful life.
- Building safety systems such as the fire alarm does not meet current code and the building does not have a fire sprinkler system.
- Exterior doors are in poor shape.

The sequence of events will be as follows: occupants will be moved out of the building, and into Ladd Hall and a portion of the Ag Service Center. Then they will be moved into the new engineering building (if approved by Legislative Assembly and SBHE) Asbestos abatement will occur, utilities will be removed and/or capped, and then the building will be demolished. The area will become a green space.

Consistency with Campus Facility Master Plan and Budget

The 2022 Campus Master Plan has several sections that are directly related to this project:

1. 2.c. Maintenance and Facility Condition Standards:
 - Fire Alarms
 - HVAC
 - Electrical systems
 - Water and Waste/Vent Piping
 - Exterior doors
 - Carpet
 - Paint
 - Windows
 - Asbestos
 - ADA
2. 2.d.ii lists Fire Alarms, Electrical Systems, and Building Envelope.
3. 3.b. Deferred Maintenance Priority (DMP) Repairs:
 - DMP 3 – Mechanical System Upgrades
 - DMP 6 – Plumbing
 - DMP 7 – Fire Alarms
 - DMP 19 – Accessibility
4. 3.c. Life/Safety/Security (LSS) Priority Needs:
 - LSS 4 – Card Access
 - LSS 5 – Video Surveillance

SBHE and/or Legislative History

May 26, 2022: SBHE approval of 2022 Campus Master Plan.

Estimated Total Purchased or Donated Costs (ALL costs should be included in the estimate, unless specifically noted otherwise).

	Amount
Planning, Permits and Insurance (design costs associated with current project, OMB preplanning revolving funds, architect and engineer fees, permits, insurance)	\$15,000
Land/Building Preparation and Purchase or Donated Costs (land acquisition and site preparation/development)	\$
Demolition and Disposal	\$700,000
Construction (foundation and building construction or renovation, including fixed equipment, landscape, infrastructure and utilities, mechanical and electrical, parking and driveways or roadways)	\$
Institutional work (value of work completed by institutional trade staff)	\$35,000
Contingency (typically 10% of construction prior to bid)	\$70,000
Hazardous Material Abatement (when not included in construction)	\$180,000
Other, including 3rd party costs (please describe)	\$
SUBTOTAL CONSTRUCTION (if total exceeds \$700,000, requires SBHE approval. See Appendix A for other requirements)	\$1,000,000
Furniture, Fixture and Equipment (FF&E)	\$
TOTAL	\$1,000,000

No other work, other than that specified within this request, is required for the completion of the project nor is other work planned to supplement this project using funding or authority not included within this request.

Future Operating/Improvement Costs and Funding Sources

Future operating costs for ABEN will be eliminated.

Source and Availability of Funds: See Appendix A

The project will be funded from Tier Funding and other appropriated or local funds and other funds, which are sufficient, available for use, and include no unrestricted gift funds.

Estimated FF&E, NOT reported above (informational only)

N/A

Project Management Oversight (Check One)

x	Project will be managed by a licensed architect, engineer, or construction manager.	Identify individual and professional discipline: Michael Ellingson, Director – Facilities Management Mechanical Engineer
	Project will be managed by non-licensed institutional staff or others.	Complete and attach Appendix B

Estimated Project Timeline and Completion Date

The project will be bid out in the summer of 2023 and demolition will start in the fall/winter of 2023 with completion the of summer 2024.

**APPLICATION
FOR THE SALE OR REMOVAL OF A PUBLIC BUILDING
WHICH IS PROPERTY OF THE STATE OF NORTH DAKOTA
As provided in Chapter 54-21-27 N.D.C.C.**

Name of Department or Agency making the application:

NORTH DAKOTA STATE UNIVERSITY

Name of Building:

Agricultural and Biosystems Engineering

Location of Building:

1221 Albrecht Boulevard
Fargo, ND 58102

Please state in detail the reason for the sale or removal of this building (use extra sheets, if necessary):

Agricultural and Biosystems Engineering (ABEN) has numerous deferred maintenance, ADA, and health/safety issues such as an antiquated fire alarm system, old exterior doors, asbestos containing materials throughout the building, limited ceiling heights, mechanical and electrical systems beyond their useful life. ABEN is a multi-level building with no elevator creating ADA issues. The bathrooms also do not meet current ADA standards. The building's deferred maintenance amount exceeds the 65% threshold established by the NDUS that prompts demolition instead of repairing the building.

State Fire and Tornado Fund Schedule of Property – Policy #1793:

Property #	Building Name	SF&T Item #	Insurance Limit
A014	Agricultural and Biosystems Engineering	13	\$5,764,314

North Dakota State University

By: De CL

Title: President

Date: 4/17/23

State Board of Higher Education

By: _____

Title: _____

Date: _____

State Fire Marshal

Date

Summary of Proposed Action SBHE Meeting – May 23, 2023

1. **Issue:** UND SMHS is requesting the SBHE to grant an exception to its tuition rates for international student rates for masters in Public Health; and SBHE to grant exceptions to its tuition rates for Minnesota Residents, other out-of-state U.S. residents, Canadian residents of Saskatchewan and Manitoba, and international students for undergraduate Medical Lab Science degree. UND SMHS's tuition rates for these programs have been less than what is established in SBHE Policy 805.1 since the academic year 2019-2020. No SBHE approval has been granted for these exceptions.
2. **Proposed motion:** Request exception to SBHE Policy 805.1 to charge tuition rates for masters in Public Health to 150 percent for international students and undergraduate Medical Lab Science degree to 100 percent of residential rates for Minnesota Residents, other out-of-state U.S. residents, Canadian residents of Saskatchewan and Manitoba, and international students. The BFC at the May 17, 2023, meeting approved the requested change for one year.
3. **Background:** SBHE Policy 805.1 establishes NDUS institutions shall set tuition rates no lower than the following, except as otherwise approved by the SBHE:
 - 112 percent of resident tuition rate for undergraduate and 127 percent for graduate rates for Minnesota residents
 - 120 percent of resident tuition rate for other out-of-state U.S. residents and Canadian Residents of Saskatchewan and Manitoba
 - 175 percent of the resident tuition rate for international studentsUND SMHS current tuition rates for the undergraduate degree in Medical Lab Science is at 100 percent of the residential rates due to the competition from other institutions. UND SMHS has contracts with twelve Western College Alliance for Medical Laboratory Science (WCAMLS) sites and those would need to be changed if the exception to the rate is not granted. UND SMHS has charged the masters in Public Health since the SBHE approved SMHS to charge 150 percent of the residential rate for masters in Physical Therapy and masters in Occupational Therapy on February 26, 2019. The masters in Public Health was inadvertently not requested at that same time. The ND/MN Reciprocity agreement will need to be modified to include the adjustments to the Medical Lab Science rates at 100 percent if approved by the SBHE.
4. **Financial implications:** None.
5. **Academic implications:** None.
6. **Legal/policy issues:** SBHE approval of requested exception makes SMHS compliant with SBHE Policy 805.1.
7. **Review Process:**
8. **Enclosures:** None.
9. **Contact person:** Karla Mongeon-Stewart, VP for finance and operations/chief operating officer, karla.stewart@und.edu, 701-777-3511.
10. **Chancellor's Recommendation:** Chancellor Hagerott recommends approval.

Summary of Proposed Action SBHE Meeting – May 23, 2023

1. **Issue:** LRSC has been granted an exemption to the N.D.C.C. 15-54.1 matching requirements in 2023 HB1003, section 40 to access \$500,000 Tier III capital building funds as designated in SB2003, section 6 from 2021-23 biennium; and \$68,491.35 from 2023-25 Tier III capital building funds as designated in 2023 HB 1003 section 11. The NDUS System Office is requesting to transfer the following amount from its capital building fund \$500,000 Tier III from 2021-23 and \$68,491.35 Tier III from 2023-25. The 2023 HB1003 section 11 & 40 are included in 2023 HB1003 section 48 authorizing an emergency clause.
2. **Proposed motion:** Ratify Chancellor's approval of the transfer of \$500,000 and \$68,491.35, respectively, from the NDUS System Office Tier III capital building fund appropriation line.
3. **Background:** 2021 SB2003, section 6 provides \$19 million and 2023 HB1003, section 11 provides \$24 million from the strategic investment and improvements fund. Tier II capital building fund pool requires \$1 in matching funds from operations or other sources for each \$1 in state funds. Tier III capital building fund pool requires \$2 in matching funds from operations or other sources for each \$1 in state funds. Carryover capital building funds have the same matching requirements. Funds transferred to an institution must be placed in that institution's capital building fund line item. During the 2023 session HB1003 section 40 exempts specific institutions designated capital building funds from requiring matching funds (N.D.C.C. 15-54.1) and provided an emergency clause on this section to allow institution to be granted the funds prior to the end of the current fiscal year.

LRSC will use 2021-23 and 2023-25 Tier III dollars for the replacement of the wind turbine and gearbox.
4. **Financial implications:** The transfer assists LRSC in the replacement of the wind turbine and gearbox.
5. **Academic implications:** None.
6. **Legal/policy issues:** None.
7. **Review Process:**
8. **Enclosures:** None
9. **Contact person:** David Krebsbach, Vice Chancellor for Administrative Affairs, david.krebsbach@ndus.edu, 701-328-4116; Joann Kitchens, Vice President for Administrative Services, joann.kitchens@lrsc.edu, 701-662-1502.
10. **Chancellor's Recommendation:** Chancellor Hagerott recommends approval.

Summary of Proposed Action SBHE Meeting – May 23, 2023

- 1. Issue:** DCB has met the requirements to access the \$1,212,128 Tier II and Tier III capital building funds as authorized by the Legislative Assembly and is requesting the NDUS System Office transfer current biennium Tier II funds of \$106,064, current biennium Tier III funds of \$500,000, and Tier II carryover funds from 19-21 biennium of \$106,064 and Tier III carryover funds from 19-21 biennium of \$500,000 to DCB's capital building fund. The 2023 HB1003 section 40 allows an exemption from the matching requirement and is included in 2023 HB1003 section 48 authorizing an emergency clause.
- 2. Proposed motion:** Ratify Chancellor's approval of the transfer of \$106,064, \$500,000, \$106,064, and \$500,000, respectively, of NDUS System Office Tier II and Tier III capital building fund and NDUS Capital Building Fund at the State Investment Board to the DCB's capital building fund appropriation line.
- 3. Background:** SB2003, section 6 provided \$19 million from the strategic investment and improvements fund. Tier II capital building fund pool requires \$1 in matching funds from operations or other sources for each \$1 in state funds. Tier III capital building fund pool requires \$2 in matching funds from operations or other sources for each \$1 in state funds. Carryover capital building funds have the same matching requirements. Funds transferred to an institution must be placed in that institution's capital building fund line item. During the 2023 session HB1003 section 40 exempts specific institutions designated capital building funds from requiring matching funds (N.D.C.C. 15-54.1) and provided an emergency clause on this section to allow institution to be granted the funds prior to the end of the current fiscal year.

DCB will use the Tier II dollars for miscellaneous projects under \$50,000, including boiler repairs, HVAC repairs, electrical repairs, water purification, concrete repairs, plumbing repairs, dorm repair; and Tier III dollars for the renovation of Old Main. DCB has Coronavirus Relief Funds (CRF) for 2019-21 and bond payments for 2021-23 Tier II matching funds that will be used to meet the match requirements. Tier III funding for 2019-21 and 2021-23 are exempt from the matching requirement per 2023 HB1003 section 40.
- 4. Financial implications:** The transfer assists DCB in completing the miscellaneous projects under \$50,000 and the renovation of Old Main utilizing the state provided funds in 2019 HB1003 and 2021 SB2003.
- 5. Academic implications:** None.
- 6. Legal/policy issues:** None.
- 7. Review Process:**
- 8. Enclosures:**
- 9. Contact person:** David Krebsbach, Vice Chancellor for Administrative Affairs, david.krebsbach@ndus.edu, 701-328-4116; Lisa Mock, Business Manager, lisa.mock@minotstateu.edu, 701-228-5432.
- 10. Chancellor's Recommendation:** Chancellor Hagerott recommends approval.

Summary of Proposed Action State Board of Higher Education Meeting – May 23, 2023

% Issue: Set guidelines for preparation of 2023-25 biennial budgets, including salary guidelines and tuition rates.

&" Proposed actions: Approve the 2023-25 biennial budget guidelines as presented.

' " Background information: Biennially, NDUS entities prepare an all funds fiscal year budget plan, covering appropriated funds, grants and contracts, auxiliaries, and all other sources of revenues. The SBHE sets broad budget policy guidance at the outset, while allowing campuses to prepare the operational details consistent with the guidelines and institutional priorities.

The attached guidelines establish salary policy, areas of strategic investment, and tuition for the 2023-25 biennium. In March 2024, institutions may request updates to the FY25 planned salary increases, tuition rates or fees, if necessary. Approval of the 2023-25 guidelines includes the following items:

- FY2(and FY2) salary guidelines, as per legislative direction and NDUS pay policy.
- FY2(and FY2) maximum annual tuition rate increases.
- Carryover authority and extraordinary repairs reporting requirements.
- Delegation of authority to the Chancellor to approve the biennial budgets within the guidelines set forth by the SBHE. However, any line item transfers from operations to capital assets line item must be approved by the SBHE prior to transfer.

(" Financial implications: Detailed above and in attachments.

) " Legal/policy issues: None

*** " Academic issues:** None

, " Attachments: Yes

- " Contact information: >Ua JY'K J_Y, 701-328-4111, jamie.wilke@ndus.edu

%\$ Chancellor's recommendation: Chancellor Hagerott recommends approval.

DRAFT

North Dakota University System 2023-25 Biennial Budget Guidelines for consideration by the BFC May 17, 2023 and SBHE May 25, 2023

The SBHE's approval of the 2023-25 biennial budget guidelines includes approval of the following:

- FY24 and FY25 salary guidelines, as per legislative direction and NDUS pay policy.
- FY24 and FY25 proposed annual tuition rate increases, detailed on tables 1-5.
- Carryover authority and extraordinary repairs reporting requirements.
- Delegation of authority to the Chancellor to approve the biennial budgets within the guidelines set forth by the SBHE. However, any line item transfers from operations to capital line items must be approved by the SBHE prior to transfer.

As part of the biennial budget, campuses and related entities shall:

- Include descriptions and amounts of targeted investments and allocations that will assist with carrying out the goals set forth in the SBHE and campuses strategic plans.
- Include descriptions and amounts of reallocations and adjustments, including adjustments to staffing, spending and operations to control costs, and the corresponding effect on ability to carry out SBHE and campus strategic plans.
- Include a brief explanation of other significant changes in the budget, not specifically addressed otherwise.
- Disclose actual FY24 and FY25 tuition rate increases by category.
- Disclose FY24 and FY25 overall average salary increases and a brief description of related salary increase policy for the 2023-25 biennium, including one-time pay adjustments.
- Disclose estimated 2021-23 carryover, and the proposed use of these funds.
- Disclose base extraordinary repairs (Tier I) match and source of funds for FY24 and FY25.
- Disclose the Capital Project and Capital Building Fund (Tier II/III) expenditure amounts including match and source of funds for FY24 and FY25.

Campuses shall submit annual budget schedules to the NDUS Office by no later than June 21, 2023. The Chancellor shall review and approve the biennial budgets consistent with the guidelines established by the SBHE.

Salary Guidelines:

NDUS entities should prepare their FY24 and FY25 payroll budget consistent with their campus/entity approved salary administration plan, and within the following guidelines:

As per NDUS 5 Pay Policy, General Adjustments are defined as follows:

- General adjustments are made based on the decisions and directions of the Legislature or the SBHE.

The 2023 Legislative Assembly, in 2023 Senate Bill 2015, Section 21, provided funding for general salary increases for the 2023-25 biennium as follows:

- FY24 increases averaging 6%, subject to satisfactory employee performance and availability of funds.
 - FY25 increases averaging 4% subject to satisfactory employee performance and availability of funds.
 - Increases for eligible employees are to be based on documented performance. Employees whose overall documented performance level does not meet standards are not eligible for any salary increase.
 - Increases are not to be the same percentage increase for each employee.
 - Probationary employees are not entitled to increases. Upon successful completion of probation an employee may receive all or a portion of the increase.
- The Chancellor and campus presidents may authorize other salary adjustments as defined in institution/entity approved salary administration plan and NDUS 5 Pay Policy. Other salary adjustments may include equity, temporary, promotion, and market adjustments. Adjustments in salary will be made with appropriate administrative approval and consultation with the institutions' Human Resource Office.

Institutions that have identified additional available funds may use these funds to address salary compression issues or enhance merit-based increases for employees essential to the effective operations of the institution.

- Institutions may also use other salary administration tools, including one-time payments.
- Probationary increases may be awarded at the discretion of the Chancellor / campus President upon satisfactory completion of a probationary period, as per funding availability.
- Per 2023 House Bill 1003, Section 39, the Chancellor and campus presidents are authorized to adjust full-time equivalent positions as needed, subject to the availability of funds.

Strategic Investments

The 2021-2026 NDUS strategic plan includes the following goals:

- **Financials:** Optimize student affordability while maintaining campus financial health
- **Responsive:** Provide access to programs people want, where and when they need them
- **Student Success:** Prepare students for success
- **Unified System:** Maximize the strengths of the unified system
- **Research:** Research Excellence and Innovation
- **Workforce:** Workforce Development

As part of the annual budget document, campuses should specifically identify targeted investments (dollar amount and the source of funds) to support the attainment of the goals set forth in the strategic plan.

Carryover

2023 HB1003, Section 36 permits the carryover of any unexpended appropriations from 2021-23 to the 2023-25 biennium. Annual budgets should disclose the estimated carryover and proposed uses. Campuses must track and report to subsequent appropriation committees on the amount and use of these funds, as required per NDCC Section 54-44.1-11.

Extraordinary Repairs and Capital Projects/Capital Building Fund

As part of the biennial budget, campuses should disclose the amount of match, and source of funds, planned for FY24 and FY25. If the source is state general fund operating, a request for a line item transfer (from operations to capital assets) should be included on Schedules 1 and 4 of the biennial budget document or submitted at a time determined by the institution. Transfers are authorized in 2023 HB1003, Section 38.

Tuition Increases, Excluding Rates for High School Students Enrolled in College Coursework

The 2023 Legislative Assembly established a tuition increase limitation for the 2023-2025 biennium. HB1003, Section 45 limits resident undergraduate tuition rate increase to 0 percent and 1 percent for high-cost undergraduate differentiated tuition programs and graduate level programs per year during the 2023-25 biennium. Tuition rate increases are being proposed by the institutions to cover operating inflation and other institution revenue needs. Institutions have determined that the rate increases will cover projected expenses while remaining competitive in the market. Student affordability was also considered, as a result, rate increases may vary by campus.

The following tables present the requested tuition increases by institution for the 2023-25 biennium. **The tables assume a full time student taking 15 credit hours per semester, except the graduate programs listed on tables 3 and 4 assume a full time graduate student taking 9 credit hours per semester.** The tuition listed is the total tuition a full time student would pay for each academic year.

Table 1 – Resident Undergraduate Tuition 2023-24 Academic Year:

Table 1 - Resident Undergraduate Tuition 2023-24 Academic Year							
	Column (1)	Column (2)	Column (3)	Column (5)	Column (6)	Column (7)	Column (8)
Campus	2022-23 Tuition	2023-24 Requested Tuition Increase		Additional 2023-24 Increase	Total Tuition Increase (Decrease)	Requested 2023-24 Tuition	% Tuition Increase
BSC - Basic Band	\$ 5,209	\$ -	0.00%		\$ -	\$ 5,209	0.00%
BSC - Technical Band	6,267	62.67	1.00%		62.67	6,329	1.00%
BSC - Nursing Band	7,325	73.25	1.00%		73.25	7,398	1.00%
BSC - BAS	6,587	65.87	1.00%		65.87	6,653	1.00%
LRSC	4,249	-	0.00%		-	4,249	0.00%
WSC - Band 1	4,138	-	0.00%		-	4,138	0.00%
WSC - Band 2 (AG, CIS, CSCI, Lab Sciences)	4,634	46.34	1.00%		46.34	4,680	1.00%
WSC - Band 3 (Message, Diesel, Welding, Nursing)	5,958	59.58	1.00%		59.58	6,018	1.00%
NDSCS	4,683	-	0.00%		-	4,683	0.00%
DCB	4,530	-	0.00%		-	4,530	0.00%
DSU	7,470	-	0.00%		-	7,470	0.00%
MaSU	6,517	-	0.00%		-	6,517	0.00%
MaSU - Nursing	6,517	65.17	1.00%		65.17	6,582	1.00%
MiSU	7,167	-	0.00%		-	7,167	0.00%
VCSU	6,619	-	0.00%		-	6,619	0.00%
UND - Base	9,237	-	0.00%		-	9,237	0.00%
UND - Aviation	10,857	-	0.00%		-	10,857	0.00%
UND - Business	9,786	-	0.00%		-	9,786	0.00%
UND - Engineering, Computer Science, Geology	10,269	-	0.00%		-	10,269	0.00%
UND - Engineering Distance Education	15,455	(772.74)	-5.00%		(772.74)	14,682	-5.00%
UND - Nursing	10,808	-	0.00%		-	10,808	0.00%
UND - Dietetics, Nutrition, SW	9,378	-	0.00%		-	9,378	0.00%
UND - MLS Undergraduate	10,146	-	0.00%		-	10,146	0.00%
NDSU - Base	9,309	-	0.00%		-	9,309	0.00%
NDSU - Architecture	12,384	-	0.00%		-	12,384	0.00%
NDSU - Business	9,751	-	0.00%		-	9,751	0.00%
NDSU - Engineering	10,243	-	0.00%		-	10,243	0.00%
NDSU - Nursing	11,089	-	0.00%		-	11,089	0.00%

Table 2 – Non-Resident Undergraduate Tuition 2023-24 Academic Year:

Table 2 - Non-Resident Undergraduate Tuition 2023-24 Academic Year						
	Column (1)	Column (2)	Column (3)	Column (5)	Column (6)	Column (7)
Campus	2022-23 Tuition	Impact of Resident Increase	Additional 2023-24 Increase	Requested 2023-24 Tuition Increase (Decrease)	Requested 2023-24 Tuition	% Tuition increase (decrease)
BSC - Base Band	\$ 7,813	\$ -	-	\$ -	\$ 7,813	0.00%
LRSC	4,250	-	-	-	4,250	0.00%
WSC	4,138	-	-	-	4,138	0.00%
NDSUS	5,620	-	-	-	5,620	0.00%
DCB	6,795	-	-	-	6,795	0.00%
DSU	9,570	-	-	-	9,570	0.00%
MaSU	9,775	-	-	-	9,775	0.00%
MiSU	7,167	-	-	-	7,167	0.00%
VCSU	11,583	-	-	-	11,583	0.00%
UND	13,856	-	-	-	13,856	0.00%
NDSU	13,963	-	-	-	13,963	0.00%

Table 3 – Resident Professional and Graduate Programs Tuition 2023-24 Academic Year:

Table 3 - Resident Professional & Resident Graduate Programs Tuition 2023-24 Academic Year						
	Column (1)	Column (2)	Column (3)	Column (5)	Column (6)	Column (7)
Campus	2022-23 Tuition	Impact of Resident Increase	Additional 2023-24 Increase	Requested 2023-24 Tuition Increase (Decrease)	Requested 2023-24 Tuition	% Tuition Increase
Professional Programs						
UND School of Medicine	\$ 34,360	\$ -	\$ -	\$ -	\$ 34,360	0.00%
UND School of Law	15,252	-	-	-	15,252	0.00%
NDSU School of Pharmacy	18,825	-	-	-	18,825	0.00%
Graduate Programs						
UND - Physician Assistant (flat rate per semester)	22,951	-	-	-	22,951	0.00%
UND - Physical Therapy	21,671	-	-	-	21,671	0.00%
UND - Occupational Therapy	21,671	-	-	-	21,671	0.00%
UND - Nurse Anesthesia	18,450	-	-	-	18,450	0.00%
NDSU - Architecture	13,622	-	-	-	13,622	0.00%
Graduate Programs (Academic year at 18 credits, 9 per semester)						
DSU	6,060	-	-	-	6,060	0.00%
MaSU - Teaching	6,578	65.78	-	65.78	6,643	1.00%
MaSU - Nursing	8,615	86.15	-	86.15	8,701	1.00%
MiSU	7,014	-	-	-	7,014	0.00%
NDSU - Basic	7,585	-	-	-	7,585	0.00%
NDSU - Engineering	8,347	-	-	-	8,347	0.00%
NDSU - Nursing	9,037	-	-	-	9,037	0.00%
NDSU - Business	11,501	-	-	-	11,501	0.00%
NDSU - Public Health	15,793	-	-	-	15,793	0.00%
UND - Basic	8,972	-	-	-	8,972	0.00%
UND - Engineering	9,813	-	-	-	9,813	0.00%
UND - Nutrition, Dietetics, SW	9,122	-	-	-	9,122	0.00%
UND - Business	9,122	-	-	-	9,122	0.00%
UND - Aerospace	8,972	-	-	-	8,972	0.00%
UND - Accounting, Applied Economics	9,193	-	-	-	9,193	0.00%
UND - Public Health	15,793	-	-	-	15,793	0.00%
VCSU	6,605	-	-	-	6,605	0.00%

Table 4 – Non-Resident Professional and Graduate Programs Tuition 2023-24 Academic Year:

Table 4 - Non-Resident Professional & Non-Resident Graduate Programs Tuition 2023-24 Academic Year						
	Column (1)	Column (2)	Column (3)	Column (5)	Column (6)	Column (7)
Campus	2022-23 Tuition	Impact of Resident Increase	Additional 2023-24 Increase	Requested 2023-24 Tuition Increase (Decrease)	Requested 2023-24 Tuition	% Tuition Increase
Professional Programs						
UND School of Medicine	\$ 63,598	\$ -	\$ -	\$ -	\$ 63,598	0.00%
UND School of Law	30,505	-	-	-	30,505	0.00%
NDSU School of Pharmacy- MN	20,519	-	-	-	20,519	0.00%
NDSU School of Pharmacy	28,237	-	-	-	28,237	0.00%
Graduate Programs						
UND - Physician Assistant (flat rate per semester)	34,428	-	-	-	34,428	0.00%
UND - Physical Therapy	32,507	-	-	-	32,507	0.00%
UND - Occupational Therapy	32,507	-	-	-	32,507	0.00%
UND - Nurse Anesthesia	24,977	-	-	-	24,977	0.00%
NDSU - Architecture	20,560	-	-	-	20,560	0.00%
Graduate Programs (Academic year at 18 credits, 9 per semester)						
DSU	6,060	-	-	-	6,060	0.00%
MaSU - Teaching	6,578	65.78	-	65.78	6,643	1.00%
MaSU - Nursing	8,615	86.15	-	86.15	8,701	1.00%
MiSU	7,014	-	-	-	7,014	0.00%
NDSU - Basic	11,448	-	-	-	11,448	0.00%
NDSU - Engineering	12,597	-	-	-	12,597	0.00%
NDSU - Nursing	13,639	-	-	-	13,639	0.00%
NDSU - Business	17,357	-	-	-	17,357	0.00%
NDSU - Public Health	23,835	-	-	-	23,835	0.00%
UND - Basic	13,458	-	-	-	13,458	0.00%
UND - Engineering	14,719	-	-	-	14,719	0.00%
UND - Nutrition, Dietetics, SW	13,683	-	-	-	13,683	0.00%
UND - Business	13,683	-	-	-	13,683	0.00%
UND - Aerospace	13,458	-	-	-	13,458	0.00%
UND - Accounting, Applied Economics	13,790	-	-	-	13,790	0.00%
UND - Public Health	23,690	-	-	-	23,690	0.00%
VCSU	6,605	-	-	-	6,605	0.00%

2024-25 Tuition Increase Request: Summary of request.

No rate increases for most institutions in the 2024-25 academic year, except for BSC, MaSU, UND, and WSC, who are increasing high-cost differential undergraduate and graduate program rates by 1%. There are some small adjustments to the professional programs in comparison to the 2023-24 requested increases.

Tuition Increase-High School Students Enrolled in College Coursework

The campuses have agreed on a common structure for all high school students enrolled in college or university coursework. The agreed upon common high school tuition rates for FY24 are:

- Subsidized rate of \$83.89 per credit hour plus the CND and NDSA per credit hour fees; to be reviewed annually and adjusted, as needed.
- Unsubsidized rate of \$148.42 per credit hour plus the CND and NDSA per credit hour fees; to be reviewed annually and adjusted, as needed.

A 0% increase is requested for each year, FY24 and FY25 for both the unsubsidized and subsidized tuition rates for high school students enrolled in college coursework.

Table 5 - Resident High School Students Tuition					
	Column (1)	Column (2)	Column (3)	Column (4)	Column (5)
	2022-23 Unsubsidized Tuition Rate per Credit Hour	2022-23 Subsidized Tuition Rate per Credit Hour	Requested Unsubsidized 2023-24 Rate Increase	Requested 2023-24 Unsubsidized Tuition Rate per Credit Hour	Requested 2023-24 Subsidized Tuition Rate per Credit Hour
Campus					
BSC	\$ 148.42	\$ 83.89	0.00%	\$ 148.42	\$ 83.89
LRSC	148.42	83.89	0.00%	148.42	83.89
WSC	148.42	83.89	0.00%	148.42	83.89
NDSCS	148.42	83.89	0.00%	148.42	83.89
DCB	148.42	83.89	0.00%	148.42	83.89
DSU	148.42	83.89	0.00%	148.42	83.89
MaSU	148.42	83.89	0.00%	148.42	83.89
MiSU	148.42	83.89	0.00%	148.42	83.89
VCSU	148.42	83.89	0.00%	148.42	83.89
NDSU	148.42	83.89	0.00%	148.42	83.89
UND - Aviation	148.42	83.89	0.00%	148.42	83.89
High School Students also pay ConnectND fee of \$5.50 and NDSA fee of \$0.04 per credit.					
Table 5 - Resident High School Students Tuition					
	Column (1)	Column (2)	Column (3)	Column (4)	Column (5)
	2023-24 Unsubsidized Tuition Rate per Credit Hour	2023-24 Subsidized Tuition Rate per Credit Hour	Requested 2024-25 Rate Increase	Requested 2024-25 Unsubsidized Tuition Rate per Credit Hour	Requested 2024-25 Subsidized Tuition Rate per Credit Hour
Campus					
BSC	\$ 148.42	\$ 83.89	0.00%	\$ 148.42	\$ 83.89
LRSC	148.42	83.89	0.00%	148.42	83.89
WSC	148.42	83.89	0.00%	148.42	83.89
NDSCS	148.42	83.89	0.00%	148.42	83.89
DCB	148.42	83.89	0.00%	148.42	83.89
DSU	148.42	83.89	0.00%	148.42	83.89
MaSU	148.42	83.89	0.00%	148.42	83.89
MiSU	148.42	83.89	0.00%	148.42	83.89
VCSU	148.42	83.89	0.00%	148.42	83.89
NDSU	148.42	83.89	0.00%	148.42	80.66
UND - Aviation Program	148.42	83.89	0.00%	148.42	83.89
High School Students also pay ConnectND fee of \$5.50 and NDSA fee of \$0.04 per credit.					



Summary of Proposed Action ND State Board of Higher Education

Title: Policy 311 Public Records

Proposed motion or action: Approve/deny the amended SBHE Policy 311 Public Records.

Background information: This amendment is necessary to comply with SB 2343 and to correspond with the amendments to SBHE Policy 100.6.

Financial issues or implications: None

Legal/policy issues or implications: The amendment, along with the amendments to SBHE Policy 100.6, bring the SBHE into compliance with SB 2343.

Review Process:

Legal/System Office/Council Reviews

Legal Review	5/15/2023	AAC	NA
Senior Staff	NA	Admin	NA
CIO	NA	SAC	NA
HRC	NA	Cabinet	NA

Committee Review

RGC	5/17/2023
SBHE	5/23/2023

Chancellor's recommendation: Chancellor Hagerott recommends approval

Two-Year/Polytechnic: *NA*

Regional/Dual Mission: *NA*

Research Tier: *NA*

Contact information:

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**NORTH DAKOTA
STATE BOARD OF HIGHER EDUCATION
Policy Manual**

Policy: 311 Public Records

Effective: February 23, 2022

1. **Policy.** Except as otherwise specifically provided by law, all records of the State Board of Higher Education, the North Dakota University System, and its institutions are public records and should be open and accessible to inspection by the public.
2. **FERPA-Protected Records.** Student education records are confidential and access to those records is restricted according to the Family Education Rights and Privacy Act of 1974, as amended (FERPA). Pursuant to FERPA and applicable North Dakota law and policy, each institution shall, at minimum:
 - a. Adopt a policy as required by 34 CFR Section 99.7;
 - b. Comply with the requirements of SBHE Policy 503.2;
 - c. Notify students currently in attendance of their rights under FERPA no less frequently than annually;
 - b. Except as provided under FERPA and 34 CFR Section 99.31, relating to conditions under which personally identifiable information may be disclosed without consent, obtain a signed and dated written consent of the student before it discloses personally identifiable information from the students education records;
 - c. Maintain a record of each request for access to and each disclosure of student personally identifiable information from the education records of each student as required by 34 CFR Section 99.32;
 - d. Ensure that all vendors and state agencies with access to student personally identifiable information maintain records regarding access, use, and disclosure of such records;
 - e. Maintain copies of all agreements entered pursuant to FERPA regarding the disclosure of student personally identifiable information.
 - f. Provide the notice required by 34 CFR Section 99.37 concerning disclosure of directory information;
 - g. Adopt procedures implementing FERPA provisions governing release and transfer of student disciplinary records. Consistent with FERPA, student disciplinary records are confidential and may be released only as permitted under FERPA and implementing institution procedures; and
 - h. Comply with all other requirements of FERPA and applicable regulations.

The Chancellor shall adopt a procedure establishing a uniform, systemwide definition of directory information, which must be incorporated in required institution policies and apply to the system office.

Records of former students, including deceased former students, shall remain confidential for as long as the records are maintained. Such records may only be disclosed to the student or at the student's written, signed request, except those records of deceased former students may be released or disclosed at the request of a parent, personal representative, or other qualified representative of the student's estate, or pursuant to a court order or subpoena. NDUS Core Technology Services (CTS) will maintain all student records for a minimum of five years after graduation, and will maintain core student records, such as academic scores and attendance records, indefinitely, unless a campus provides alternative instructions for records relating to its former students.

3. Access to and disclosure of campus police records is governed by N.D.C.C. Section 44-04-18.7. Accordingly, active criminal intelligence information and active criminal investigative information are exempt from the open records law. Each campus law enforcement agency shall maintain a list of all files containing active criminal intelligence and investigative information which have been in existence for more than one year, which shall be subject to disclosure under N.D.C.C. Section 44-04-18.
 - a. Campus police records which are open and must be disclosed under Section 44-04-18.7 include:
 - i. Arrestee description, including name, date of birth, address, race, sex, physical description, and occupation of the arrestee;
 - ii. Facts concerning the arrest;
 - iii. Conviction information;
 - iv. Disposition of all warrants;
 - v. A chronological list of incidents, including initial offense report information;
 - vi. A crime summary, including a departmental summary of crimes reported and public calls for service;
 - vii. Radio log;
 - viii. General registers; and
 - ix. Arrestee photograph, if release will not adversely affect a criminal investigation.

Notwithstanding the foregoing, campus police records under this section shall not include student personally identifiable information obtained from education records protected by FERPA, and to the extent that information contained within campus police records is obtained from FERPA-protected records, that information is confidential and may not be released except as permitted by FERPA.

- b. Law enforcement records and files concerning a child, as that term is defined at N.D.C.C. ch. 27-20, shall be kept separate from the records and files of adults and shall not be open to public inspection and may not be disclosed except according to the provisions of N.D.C.C. ch. 27-20.
 - c. Records of undercover law enforcement officers are confidential and exempt from the open records law as provided by N.D.C.C. Section 44-04-18.3.
4. **Applications for Employment.** Documents and information submitted in response to a posted position for a vacant position (“Application Materials”) are exempt from public disclosure, except as follows:
- a. If fewer than three persons submit Application Materials by the date the job posting closes, then all submitted Application Materials shall be open to the public.
 - b. If more than three persons submit Application Materials in response to a posted position, then the hiring authority shall designate three or more finalists prior to making a hiring decision. Upon the designation of finalists, only the Application Materials submitted by the finalists shall be open to the public.
 - c. Prior to the designation of finalists, information contained in Application Materials may be utilized for the purposes of evaluating candidates for the posted position, including checking references, verifying eligibility, and similar purposes, even if doing so reveals identifying information about an applicant.
 - d. Some or all identifying information contained in an applicant’s Application Materials may be disclosed with the written consent of the applicant.

This Section constitutes the policy of the State Board of Higher Education as referenced in N.D.C.C. § 44-04-18.27.

5. **Personnel Records.** Personnel records are public records open to inspection by the public, except as follows:
- a. Personnel records that relate to an employee who is employed either in a federal work-study program or only as a result of their status as a student are confidential pursuant to FERPA.
 - b. Employee medical records and employee assistance program records are confidential, may not be placed in an employee's personnel file, and may not be released without the written consent of the employee or as otherwise provided by law. Records within the personnel file which contain medical information are exempt.
 - c. Personal information, as defined in section 44-04-18.1 (2), including a person’s home address, home telephone number, photograph, medical information, motor vehicle operator’s identification number, payroll deduction information, the name, address, phone number, date of birth of any dependent or emergency contact, any credit, debit, or electronic fund transfer card number, and any account number at a bank or other financial institution, are exempt from the open records law and may be released only as required by law, pursuant to SBHE policy, or with the employee’s written consent.
 - d. The Chancellor shall adopt a procedure establishing a uniform, systemwide procedure concerning release of exempt personal information, which must be incorporated in required institution

procedures and apply to the system office. Placement of documents in an employee's personnel file is governed by N.D.C.C. Section 54-06-21.

6. **Internal Auditors' Records.** The following provisions govern the records of an internal auditor employed by the SBHE, NDUS, or institution.
 - a. "Working papers" include records kept by an internal auditor of the procedures applied, the tests performed, the information obtained, draft audit reports, and the pertinent conclusions reached in the audit engagement.
 - b. The working papers of an internal auditor employed by the SBHE or an institution related to an ongoing audit are exempt from public disclosure while the audit is ongoing.
 - c. Draft audit reports of an internal auditor are exempt from public disclosure until the final audit report is released by the internal auditor.
 - d. Upon the release of the final audit report, all drafts and working papers are open to the public unless designated as confidential by the internal auditor. The designation of confidentiality must include the reason for the confidentiality and the approximate date when the working papers will be made public. Information or records included in working papers which are otherwise exempt or confidential under other federal or state law are not made open to the public by their inclusion in working papers.
 - e. This Policy applies only to formal audits of internal auditors, and not to other work performed by the internal auditors in the course of their employment.
7. **Fundraising and Donor Records.** Records related to donors or prospective donors are exempt from public disclosure, including the name, address, telephone number, electronic mail address, estate planning information, tax record or financial information, and other personal information and correspondence received or retained by the SBHE, NDUS, or an institution or their agents, including a nonprofit affiliate under SBHE Policy 340.2.
 - a. For the purposes of this section, "financial information" includes data that provides details regarding a gift, a payment schedule of a gift, the form of a gift, or the specific amount of a gift made by a donor.
 - b. In order to comply with this section, documents submitted to the Challenge Grant Review Committee in support of a request for matching funds shall be redacted by the submitting institution or the NDUS Office prior to submission to the Committee.
8. **Other Exempt or Confidential Records.** Additional records exempt from or confidential under the open records law include (without limitation):
 - a. Medical information or records in the possession of the SBHE, NDUS, or an institution other than in a personnel record, including but not limited to patient records at student health services and university system clinics (N.D.C.C. § 44-04-18.16; N.D.C.C. § 44-04-18.32).

- b. Information pertaining to an employee's retirement account balance, disability applications and benefits, and surviving spouse applications and benefits under N.D.C.C. ch. 54-52 or a plan adopted by the board (N.D.C.C. § 54-52-26);
 - c. Trade secret, proprietary, commercial and financial information (N.D.C.C. § 44-04-18.4 and SBHE Policy 611.6), including university research records and personally identifiable study information;
 - d. Computer software programs or components for which a copyright, patent or license is acquired (N.D.C.C. § 44-04-18.5);
 - e. Attorney work product (N.D.C.C. § 44-04-19.1(6)) and active litigation records (N.D.C.C. § 44-04-19.1(12));
 - f. Complaints submitted to the NDUS Office of Compliance and Ethics or an institution official, for the shorter of 75 days from the date of submission, or the conclusion of the investigation into the Complaint (N.D.C.C. § 44-04-18.1(6)).
 - g. Social security numbers, which are confidential under N.D.C.C. § 44-04-28; and
 - h. Title IX records at state universities and colleges (N.D.C.C. § 44-04-18.28).
9. **Disclosure of Public Records.** Copies of records that are not confidential or exempt from public disclosure shall be provided upon request.
- a. Records must only be provided in the form in which they are stored. If records are stored electronically, only an electronic copy may be provided, subject to providing a physical copy if a requestor does not have access to means to receive and review the electronic copy.
 - b. SBHE, NDUS, and institution records need only be provided in the form in which they are kept, and employees are not required to engage in summary, collation, collection, or preparation of data except as required to provide reasonable access the public record or data.
 - c. **Fees.** The NDUS (for itself and for the SBHE) may establish a fee schedule to cover the costs of locating, reviewing, copying, redacting, and producing records pursuant to this policy and any applicable NDUS or institution procedures, subject to the following limitations set forth in N.D.C.C. § 44-04-18:
 - i. The fee for standard paper copies may not exceed twenty-five cents per copy. No fee may be assessed for providing copies of electronic documents.
 - ii. A fee not to exceed twenty-five dollars per hour, excluding the first hour, may be charged per request for locating records.
 - iii. A fee not to exceed twenty-five dollars per hour for excising confidential or exempt material if excising the material requires more than one hour.
 - iv. If a request is made for access to a record on a backup an additional reasonable fee may be charged to cover costs attributable to the use of information technology resources.

The NDUS and institutions may waive any fees in the discretion of the Chancellor or institutional chief executive officer or their designee for this purpose. Prior to beginning any review for which a fee may be charged, the NDUS or institution must provide the requester with an estimate of such fee and request approval or pre-payment.

- d. **Legal Review.** The SBHE, NDUS, and institutions should seek legal counsel from the appropriate assigned attorney or other individual who has received training on proper redaction and production procedures prior to releasing information or records which may contain exempt or confidential information.
- e. **Referral.** NDUS entities may not refer a request for the disclosure of records to another entity within the NDUS. If an NDUS entity does not have records, they may respond that they have no responsive records to the request. NDUS entities, may, but are not required to, provide information to a requester about what entity may have more records related to the request; however, providing such information does not eliminate the requirement to respond to the request.

10. Records which are designated as either “exempt” or “confidential” by N.D.C.C. § 44-04-18, *et seq.*, may only be released to the public as permitted by that statute or SBHE Policy.

- a. The following exempt records may only be released to the public by a roll call vote of the SBHE:
 - i. Exempt recordings of executive sessions of SBHE or SBHE committee meetings, including to ~~SBHE members and~~ NDUS employees.
 - ii. Attorney work product related to an active litigation matter or administrative proceeding, or which is prepared in imminent anticipation of the same, except as necessary to the litigation matter.
 - iii. Otherwise-exempt Application Materials submitted in response to a posted position in the NDUS Office or for the office of Chancellor or institution chief executive officer.
 - iv. Exempt personal information of SBHE members, the Chancellor, or an institution chief executive officer, except as necessary to carry out the business of the North Dakota University System, including but not limited to payroll or reimbursement.
- b. The SBHE Audit Committee shall have the discretion to release exempt complaints received, by whatever means, by the Office of Internal Audit or the Office of Compliance and Ethics, except as set forth in this policy.
- c. Unless otherwise provided by this Policy, if an exempt record is maintained by an institution under the control of the SBHE, the institution’s chief executive officer may determine whether to disclose the record to the public.
- d. Unless otherwise provided by this Policy, if an exempt record is maintained by the NDUS Office or by the NDUS Office on the SBHE’s behalf, the Chancellor may determine whether to disclose the record to the public.

11. The Chancellor and institutions shall adopt procedures to implement a uniform process for responding to requests for the disclosure of records under this Policy.

12. The NDUS Office and each institution shall maintain a continuing program for the management of records as required by N.D.C.C. ch. 54-46 using the North Dakota Colleges/Universities General Records Retention Schedule maintained and updated by the ND Information Technology Department and as supplemented by institution-specific retention schedules maintained by individual institutions. Records received or created by Board members are governed by the NDUS Office program.
13. NDUS Core Technologies Services (CTS) retains employee email accounts for two years as required by statute, unless a different time is required by a litigation hold. Campuses shall be responsible for ensuring that any and all email communications that are subject to a different retention schedule are retained as required.
14. The North Dakota University System (NDUS) and its institutions shall immediately implement litigation hold procedures when they are involved in litigation, or it is reasonably foreseen that they may become involved in litigation. A litigation hold is the process of identifying and preserving materials that may be relevant to the litigation, including documents, electronic information, and other items. The Chancellor shall adopt a procedure implementing the litigation hold process.
15. The Chancellor shall adopt a procedure implementing provisions of the Financial Services Modernization Act of 1999 (Gramm Leach Bliley Act).

References: 15 U.S.C. § 6801; 20 U.S.C. § 1232g; 34 C.F.R. Part 99; N.D.C.C. ch. 15-10; N.D.C.C. ch. 44-04; N.D.C.C. § 54-06-21; N.D.C.C. ch. 54-46; SBHE Policy 503.2.

History: New policy, SBHE minutes, October 22, 1992; Amended, SBHE minutes, January 15, 1998; Amended, SBHE minutes, May 21, 1998; Amended, SBHE minutes, November 21, 2002; Amended, SBHE minutes, December 16, 2004; Amended, SBHE minutes, June 16, 2005; Amended, SBHE minutes, November 20, 2014 (the Amended to paragraph 7 will be effective March 1, 2015); Amended, SBHE minutes, September 28, 2017; Amended, SBHE minutes, February 23, 2022.

Title: Policy 461 Digital Literacy

Proposed action: Approve/deny the new SBHE Policy for Digital Literacy.

Background information: In 2018, the ND State Board of Higher Education directed the colleges and universities of the NDUS to begin implementation of a digital literacy requirement for NDUS graduates. Institution presidents have been charged with implementation of a digital literacy requirement at their respective institution. Institutions are provided latitude in how they choose to implement digital literacy at their respective campus.

Financial matters: N/A

Legal/policy matters: N/A

Academic matters: Expected timeline for implementation:

May 15, 2023	Documented campus determination of what approach will be adopted to implement a digital literacy requirement at the institution
May 22-23, 2023	Each campus will share a summary of their implementation progress and future plans at the SBHE Retreat
July 1, 2024	2024 institution academic catalogs and corresponding degree audits software/forms will reflect how students meet the digital literacy requirement
May 2026	First year students of associate-level degrees will have met the published digital literacy requirement.
May 2028	First year students of baccalaureate-level programs will have met the published digital literacy requirement.

Review Process:

Legal Review	03/21/2023	Recommends moving forward
Senior Staff	03/27/2023	Recommends moving forward
AAC	04/04/2023	
Admin	04/04/2023	Informational only
SAC	04/04/2023	Informational only
Cabinet	04/12/2023	Recommends moving forward
AAC	05/02/2023	Suggested changes, recommends moving forward
Admin	05/02/2023	Informational only
SAC	05/02/2023	Informational only
Cabinet	5/10/2023	Cabinet reinstated 4.d and e

Chancellor's recommendation:

Committee Review:

ASAC	04/19/2023	
	05/17/2023	
SBHE	04/27/2023	1 st Read
	05/23/2023	2 nd Read

Contact information:

Lisa A. Johnson, Vice Chancellor of Academic and Student Affairs, 701-328-4143, lisa.a.johnson@ndus.edu

**NORTH DAKOTA
STATE BOARD OF HIGHER EDUCATION
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Policy: 461 Digital Literacy

Effective: TBD, 2023

NEW POLICY

1. DEFINITION:

- a. Digital literacy is the ability to use technology to find information, evaluate sources, create content, and communicate with others effectively. It's a skill set used to navigate the new technological paradigm in which society operates.
2. Each institution must have a digital literacy requirement for all associate and baccalaureate-level programs.
3. These requirements may be accomplished through any of the following instructional methods:
 - a. A specific course requirement ranging from 1-3 semester credits;
 - b. Adding or embedding within an existing course;
 - c. Presented through a series of self-paced modules with documentation of a completed series; or
 - d. Designated courses offered through the Dakota Digital Academy.
4. Learning outcomes include:
 - a. Evaluate and interpret the accuracy, credibility, and relevance of digital information;
 - b. Describe the ways in which society and culture interact with digital technology;
 - c. Demonstrate the knowledge to use digital technology safely and ethically at a basic level;
 - ~~d. Exhibit the ability to create, analyze, critique, and/or edit digital content~~
 - e. Understand the applicability of digital literacy and artificial intelligence to the current and emerging workforce.
5. There shall be no increase in the number of credits required to earn an associate or baccalaureate-level degree because of this policy.
6. Documentation of a completed digital literacy requirement at a NDUS institution will be honored in transfer to another NDUS institution.
7. Each institution must meet the following program implementation deadlines:
 - a. By July 1, 2024, all institution academic catalogs and corresponding degree audit materials must reflect how students meet the digital literacy requirement;
 - b. By May 2026, first-year students with a term to enter of fall semester, 2024, graduating from an associate-level program must meet the published digital literacy requirement.;

- and
- c. By May 2028, first-year students with a term to enter of fall semester, 2024, graduating from a baccalaureate-level program must have met the published digital literacy requirement.
 - d. If campuses cannot identify the resources to implement the requirements of this policy, the Board shall be notified.

Title: Policy 330 Policy Introduction, Amendment, Passage

Proposed action: Approve/Deny the revised SBHE policy on Policy Introduction, Amendment, Passage.

Background information: The policy has been revised to clarify the roles of the NDUS office and its legal counsel in making non-substantive changes to SBHE policies.

Financial matters: N/A.

Legal/policy matters: The revision emphasizes legal counsel's responsibility to advise the NDUS and SBHE, and the NDUS and SBHE's authority to revise SBHE policies.

Academic matters: N/A.

Review Process:

Legal Review	3/29/2023	Recommends moving forward
Senior Staff	3/27/2023	Recommends moving forward
AAC	4/04/2023	Informational only
Admin	4/04/2023	Informational only
SAC	4/04/2023	Informational only
Cabinet	4/12/2023	Recommends moving forward

Chancellor's recommendation: Chancellor Hagerott recommends approval.

Committee Review

RGC	4/19/2023	
SBHE	4/27/2023	1 st Read
	5/23/2023	2 nd Read

Contact information:

Chris Pieske, Chief Compliance Officer, 701-328-3303, christopher.pieske@ndus.edu

NORTH DAKOTA
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Policy: 330 Policy Introduction, Amendment, Passage

Effective: March 28, 2018

1. The Chancellor, a SBHE member, the faculty advisor or the staff advisor may propose a new policy or policy amendment by requesting that it be placed on the agenda for an upcoming SBHE meeting.
 - a. A new policy or policy amendment ~~shall~~must comply with the SBHE drafting manual and formatting template.
2. The SBHE legal counsel will review or draft the proposed policy or amendment to be considered by the SBHE.
3. The SBHE generally will conduct both a first reading and a second reading of any proposed policy or amendment.
 - a. First reading: During the first reading, the SBHE will obtain a summary of the proposed policy or amendment. The SBHE will vote on whether to approve the proposed policy or amendment for a second reading. Upon such approval, the proposed policy or amendment will be placed on the agenda of a future SBHE meeting for the second reading.
 - b. Second reading: During the second reading, the SBHE may provide an opportunity for interested parties to comment on the proposed policy or amendment. After any necessary SBHE discussion, the SBHE may take final action on the proposed policy or amendment.
4. The SBHE may waive a second reading of a proposed policy or amendment by a majority vote supporting the waiver.
5. At any time before final action on a proposed policy or amendment, SBHE members may propose and consider amendments to the proposed policy or amendment.
6. If the SBHE adopts a proposed policy or amendment, the new policy or amendment will take effect immediately upon SBHE approval, unless otherwise specified by SBHE motion.
7. If the ~~NDUS system office~~ NDUS system office, ~~in consultation with the SBHE legal counsel,~~ determines that a proposed revision of an existing policy is minor in nature, is necessary to ensure consistency or accuracy, and does not substantively change the policy, the ~~SBHE legal counsel~~ NDUS system office may make the proposed revision without action taken by the SBHE. Any revision made under this paragraph must be reviewed by legal counsel and reported to the SBHE within thirty days of the change. If a member of the SBHE objects to the proposed revision, the policy will be placed on the agenda of a future SBHE meeting.

Title: Policy 302.3 Budget and Finance Committee

Proposed action: Approve/Deny the revised SBHE Policy 302.3 Budget and Finance Committee

Background information: Two things here:

- In section 2, the existing policy limits a voting member of the SBHE to serving no more than three consecutive one-year terms on the committee. This update removes that limitation.
- In section 4.i, the language is clarified to state information technology matters that have a significant financial impact on the NDUS will be brought before the budget and finance committee.

Financial matters: N/A

Legal/policy matters: N/A

Academic matters: N/A

Review Process:

Legal Review	3/27/2023	Recommends moving forward
Senior Staff	3/27/2023	Recommends moving forward
AAC	4/04/2023	Informational only
Admin	4/04/2023	Informational only
SAC	4/04/2023	Informational only
Cabinet	4/12/2023	Recommends moving forward

Chancellor's recommendation: Chancellor Hagerott recommends approval.

Committee Review

RGC	4/19/2023	
SBHE	4/27/2023	1 st Read, update section 4i, as discussed, have BFC review as informational and then to RGC for recommend to full Board for 2 nd reading
	5/23/2023	2 nd Read
BFC and RGC	5/17/2023	

Contact information:

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NORTH DAKOTA
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Policy: 302.3 Budget and Finance Committee

Effective: June 29, 2021

1. The SBHE budget and finance committee is established to ensure the NDUS fiscal stability and long-term economic health.
2. The budget and finance committee shall consist of no less than three voting members of the SBHE and the Chancellor shall serve, ex officio, as a non-voting member of the committee. The SBHE president will appoint committee members as well as the committee chair by June 30th of each year to serve one-year terms starting July 1st. ~~No voting member of the SBHE shall serve more than three consecutive terms and terms shall be staggered to ensure continuity of committee membership over the budget cycle.~~ The SBHE president may also appoint additional members to serve, ex officio, as non-voting members of the committee. If a vacancy on the committee occurs before June 30th, the SBHE president shall appoint a voting member of the SBHE to fill the vacancy not later than the next regular meeting of the SBHE after the vacancy occurs.
3. The budget and finance committee shall set a meeting schedule for the year at the committee's first meeting after July 1st. Meetings shall comply with all applicable laws, including the necessary posting of notice, the preparation of agendas in advance of meetings, and the recording of minutes for each meeting.
4. The committee is responsible for reviewing and recommending the following to the SBHE for approval:
 - a. Biennial budget guidelines, including tuition and fees that promote SBHE goals;
 - b. Biennial operating budget for the NDUS office and SBHE operations;
 - c. Biennial budget requests to the legislative and executive branches consistent with the SBHE's constitutional requirement to prepare "a single unified budget covering the needs of all institutions under its control";
 - d. Priorities for institution capital requests and the system-wide capital master plan;
 - e. Funding mechanisms and methodologies;
 - f. Allocation of funds directly appropriated to the SBHE;
 - g. Policies regarding human resources, finance and budget;
 - h. Changes to budget and financial related reporting provided to the committee or SBHE;

- i. ~~Suggestions on i-~~information technology matters that ~~present~~ could have a significant financial impact ~~risk to on~~ the NDUS.
 - j. Major financial studies;
 - k. Retirement plan changes;
 - l. Proposed bond issues;
 - m. Proposed purchase, sale or exchange of real property;
 - n. Proposed development of state land;
 - o. Proposed significant change or expansion to capital projects; and
 - p. Proposed campus assessments exceeding ten thousand dollars.
5. The budget and finance committee shall be responsible for receiving budget and finance reports, including:
- a. Tuition waivers;
 - b. Financial review report;
 - c. Mid-year budget status report;
 - d. Student affordability; and,
 - e. Financial statements.

History: New policy, SBHE minutes, February 27, 2014; Amended, SBHE minutes, October 27, 2016; Amended, SBHE minutes, May 23, 2018; Amended, SBHE minutes, June 27, 2019; Amended, SBHE minutes, May 29, 2020; Amended, SBHE minutes, June 29, 2021.



State Board of Higher Education Policy Summary

Title: Policy 302.7 Research and Governance Committee

Proposed action: Approve/Deny Policy 302.7 Research and Governance Committee

Background information: Two primary edits/updates:

- Section 4 clarifies the membership terms of the regional/dual mission and 2-year/polytechnic institutions representative to the committee. It also outlines process for nomination and election process for identifying a new representative.
- Section 8.d adds the Vice Chancellor of IT and Chief Information Officers council to the governance function for leading the ongoing assessment and improvement.

Financial matters: N/A

Legal/policy matters: N/A

Academic matters: N/A

Review Process:

Legal Review	3/27/2023	Recommends moving forward
Senior Staff	3/27/2023	Recommends moving forward
AAC	4/04/2023	Informational only
Admin	4/04/2023	Informational only
SAC	4/04/2023	Informational only
Cabinet	4/12/2023	Recommends moving forward

Chancellor's recommendation: Chancellor Hagerott recommends approval.

Committee Review

RGC	4/19/2023	amended section 4 (five-year term)
SBHE	4/27/2023	1 st Read
	5/23/2023	2 nd Read

Contact information:

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**NORTH DAKOTA
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Policy: 302.7 Research and Governance Committee

Effective: June 30, 2020

1. The SBHE research and governance committee is established to ensure that the SBHE and NDUS are serving the research needs of the institutions which make up the NDUS, including primarily the University of North Dakota and North Dakota State University, as well as to ensure the effectiveness of SBHE governance through thoughtful, focused attention placed on strategic evaluation and improved SBHE performance.
2. The research function of the committee shall consist of no fewer than three voting members of the SBHE and the Chancellor shall serve, ex officio, as a non-voting member of the committee. The research committee shall also have the following non-voting members:
 - a. From the University of North Dakota, 3 members: the President, the vice president responsible for research, and one faculty member appointed by the faculty senate;
 - b. From North Dakota State University, 3 members: the President, the vice president responsible for research, and one faculty member appointed by the faculty senate;
 - c. From the North Dakota University System, 1 member: the Vice Chancellor of Academic Affairs (or her designee); and
 - d. From the regional/dual mission and 2-year/polytechnic institutions, 1 member.

The committee chair may, as a matter of discretion, invite guests from the community or industry to participate in committee meetings.

3. The SBHE president will appoint SBHE committee members and designate the committee chair by June 30th of each year to serve one-year terms starting July 1st. If a member of the committee is no longer able to serve on the committee prior to June 30th, the vacant positions shall be filled as follows:
 - a. If an SBHE member, by the SBHE president;
 - b. If a non-faculty representative of the University of North Dakota or North Dakota State University or the North Dakota University System, by the successor to the duties of the vacant position (including any acting or interim appointee);
 - c. If a faculty representative of the University of North Dakota or North Dakota State University, at the next meeting of the respective faculty senate;
 - d. If the representative of the regional/dual mission and 2-year/polytechnic institutions,

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following the procedure set forth in paragraph 4, below, except that the new representative shall serve out the remainder of the vacant term.

4. The representative referenced at paragraph 2(d) of this policy ~~shall be from a regional/dual mission institution for will serve at most two five~~one-year terms ~~which begin in an odd-numbered year, and shall be from a 2-year/polytechnic institution for one-year terms which begin in an even-numbered year. The election of a new representative will be coordinated by the outgoing representative.~~ The Presidents of the regional/dual mission and 2-year/polytechnic institutions of institutions eligible to have a representative on the research committee in a given year shall submit nominations no later than June 1st ~~of the final year of the representative's term~~. The Presidents of all regional/dual mission and 2-year/polytechnic institutions shall then vote on the nominated individuals no later than June 30th, and the nominee with the most votes shall be appointed to a ~~four-five~~ one-year term beginning on July 1st. In the event of a tie, the Presidents shall hold a second vote on the tied individuals.
5. The governance function of the committee shall include the three voting SBHE members assigned by the SBHE president, and the Chancellor shall be a non-voting member.
6. The research and governance committee shall set a meeting schedule for the following year at the committee's first meeting after July 1st. Meetings shall comply with all applicable laws, including the necessary posting of notice, the preparation of agendas in advance of meetings, and the recording of minutes for each meeting. The agenda may be divided into separate research and governance functions, as necessary.
7. The research function of the committee shall be responsible for leading the ongoing assessment and improvement of NDUS system-wide research performance, and for reviewing and recommending SBHE action, studies and reports related to research matters, such as
 - a. Accountability
 - i. Review and report on system-wide and institution-level research activities, metrics and overall performance, with the exception of research compliance and audit activities, which remain the responsibility of the Audit Committee.
 - b. Advisory
 - i. Communicate institutional needs or problems related to research and the research environment to the SBHE;
 - ii. Promote dissemination to the public of information about research at the institutions;
 - iii. Receive and report on information on issues that impact research at NDUS institutions;
 - iv. Advise the SBHE on the implementation of policies, procedures, and programs, at the system and institution level, instituted for the support of research; and
 - v. Serve as a forum for the discussion of improvement and expansion of research activity.

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c. Integration/Collaboration

- i. Promote cooperation and collaboration between institutions, state and federal agencies, and the private sector on research and research-related issues; and other research-related issues as brought to the committee's attention by the institutions or other stakeholders;
- ii. Originate and suggest amendments to research related SBHE policies, including, but not limited to, changes to the scope and duties of the research committee;
- iii. Promote cross-institution collaboration in research; and
- iv. Promote and facilitate the commercialization of research results and intellectual property held by the institutions and the NDUS.

d. Strategic Guidance

- i. Promote the well-being of faculty and staff involved with research activity;
- ii. Make recommendations for the coordination of programs to enhance research and the research environment; and
- iii. Develop a bi-annual strategy focused on research.

8. The governance function shall be responsible for leading the ongoing assessment and improvement of SBHE performance by actively engaging in activities such as:

- a. Assisting the SBHE chair in developing and implementing meaningful orientation programs for new SBHE members;
- b. Developing goals for SBHE performance and benchmarks for measuring SBHE effectiveness to be considered by the SBHE; and
- c. Providing recommendations to the SBHE on how the annual evaluations of both the institution presidents and the Chancellor are conducted.

~~e.d.~~ Receiving regular updates and recommendations from the Vice Chancellor of IT and Chief Information Officer on related issues, initiatives, and priorities, as well as pertinent matters addressed at the Chief Information Officers councils.

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JOINT POWERS AGREEMENT
State Board of Higher Education and City of
Minot, North Dakota

THIS JOINT POWERS AGREEMENT ("Agreement") is between the City of Minot, North Dakota, (the "City"), party of the first part, and the North Dakota State Board of Higher Education ("Board"), party of the second part. Both parties are political subdivisions, organized under the laws of the State of North Dakota, and the Board has lawful control and administration over Dakota College at Bottineau ("DCB"), party of the third part, which is located in Bottineau, North Dakota.

PRELIMINARY STATEMENT

The Board is created by Article VIII, Section 6 of the North Dakota Constitution, and is the governing board of North Dakota public colleges and universities, including DCB, located in Bottineau, North Dakota. The City is a home rule city organized and operated under its Home Rule Charter pursuant to Chapter 40-05.1, North Dakota Century Code. The City and DCB have authority to enter into a Joint Powers Agreement pursuant to North Dakota Century Code (N.D.C.C.) Sections 54-40-01, 54-40-08, and 54-40.3-01 and Article VII, Section 10 and Article VIII, Section 6 of the North Dakota Constitution.

The purpose of this Agreement is to provide financing to DCB to renovate and repurpose an existing building ("CTE building") into a Career Technical Education Facility (CTE). The CTE building is located at 120 East Burdick Expressway in Minot, North Dakota.

On May 3, 2021, the City entered into an agreement with the Minot State University ("MSU") Development Foundation to provide them with an eight hundred-thousand-dollar (\$800,000.00) grant from the Magic Fund to purchase the CTE building ("Magic Fund Agreement"). A copy of the Magic Fund Agreement is attached hereto as Exhibit A. The building is now owned by the MSU Development Foundation, and it is currently being leased to DCB. Attached to the Magic Fund Agreement as Exhibit 1 is a copy of DCB's lease agreement with the MSU Development Foundation to lease the CTE building ("CTE Lease").

On November 1, 2021, the City entered into an agreement with DCB to provide them with up to three point four million dollars (\$3,400,000.00) of the City's Community Development Block Grant – National Disaster Resilience Program award to rehabilitate and equip the CTE building to commence operations as a CTE and to provide administration and training in the CTE for a minimum of 10 years. ("CDBG-NDR Subrecipient Agreement"). A copy of the CDBG-NDR Subrecipient Agreement is attached here to as Exhibit B.

The improvements contemplated under the CDBG-NDR Subrecipient Agreement include an internal remodel of the CTE building to construct laboratory and classroom space, a computer center, offices, and study areas that will enable DCB to provide programming and management for the CTE, which will offer one- and two- year certificate programs, customized technical training for area businesses, associate degree programs, and, eventually, college transfer programs. The CTE building is owned by the MSU Development Foundation, who has a lease agreement with DCB to operate a CTE.

The City Council for the City of Minot, North Dakota considered the request of DCB and gave tentative approval to allocate one million, eight hundred and forty-two thousand, ninety-three dollars and no cents (\$1,842,093.00) from the City's HUB City funding to DCB to complete the internal remodel of the first and second floor of the CTE building. This contribution is contingent upon and subject to (1) the passage of an appropriate Ordinance at second reading; (2) the execution and signature of this Joint Powers Agreement between the North Dakota State Board of Higher Education and the City; (3) approval of this Agreement by the North Dakota Attorney General's Office; and (4) DCB's successful completion of the terms and conditions set forth in the CTE Lease and CDBG-NDR Subrecipient Agreement.

THEREFORE, in accordance with North Dakota Century Code Chapters 54-40 and 54-40.3, and Article VII, Section 10 and Article VIII, Section 6 of the North Dakota Constitution the parties HEREBY AGREE AS FOLLOWS:

1. Purpose. The purpose of this Agreement is to provide financing to DCB to renovate and repurpose the CTE building for its intended purpose as a CTE. The improvements contemplated under this agreement include an internal remodel of the CTE building to construct laboratory and classroom space, a computer center, offices, and study areas that will enable DCB and Minot State University (MSU) to provide programming and management for the CTE, which will offer one- and two- year certificate programs, customized technical training for area businesses, associate degree programs, and eventually college transfer programs. The Board and the City agree that funding for these renovations will be derived from the City's distribution of HUB City funding allocated pursuant to N.D.C.C. Ch. 57-51, and shall consist of a one-time payment of one million, eight hundred and forty-two thousand, ninety-three dollars and no cents (\$1,842,093.00).
2. Effective Date and Term. This Agreement shall become effective on the date signed by the last party to sign the Agreement and following required approval by the Attorney General of the State of North Dakota ("Effective Date"). In respect to the City's potential and general use of the CTE building's facilities, the City's right to exercise such use shall be continuous and without a time limitation following the completed execution of this Agreement as set forth in Section 5, below.
3. CTE Building Renovation Financing. The City and Board understand and agree that any payments made under this Agreement are contingent upon full compliance with all of the following conditions:
 - a. Completion and execution of this Joint Powers Agreement by the parties' authorized representatives and final approval of this Agreement by the Office of the North Dakota Attorney General that the agreement is legally sufficient;
 - b. Final passage of Ordinance No. _____ by the Minot City Council authorizing the City to enter into this Joint Powers Agreement and appropriating the sum of one million, eight hundred and forty-two thousand, ninety-three dollars and no cents (\$1,842,093.00) to finance the renovation of the CTE building.
 - c. DCB's full compliance with the terms and conditions of the CTE Lease and

CDBG-NDR Subrecipient Agreement.

4. Title to CTE Building Improvements and Administration, Management, and Operation of CTE. Legal title to the CTE building and improvements funded by the City's allocation under this Agreement shall remain with the MSU Development Foundation. Additionally, the parties agree that the administration, management and operation of the CTE shall be under the completion direction and authority of the Board and DCB.
5. General Use. The Board and City agree that the CTE building shall be operated as a public facility and made available for public and private entities and individuals when not being used for its intended purpose as a CTE. The availability for these purposes shall be based upon reasonable notice and reasonable requests, as determined by appropriate staff at DCB, for use of the CTE building. Any requests specifically made by the City for use of the CTE building shall be without charge or assessment of any fee on a continuous basis and without a time limitation following the completed execution of this Agreement. Furthermore, the parties agree that the facilities described herein shall be utilized primarily as a CTE, will offer customized technical training for area businesses, associate degree programs, and eventually college transfer program. The parties agree that the CTE building shall be utilized for college, school and public or community educational activities and events that enhance the quality of life for the community and residents of the surrounding area.
6. Financial Administration – City. Upon execution of this Agreement, the City shall disburse one million, eight hundred and forty-two thousand, ninety-three dollars (\$1,842,093.00) to the Board. All financial arrangements shall be made through the City's Finance Department.
 - a. Use of Funds. DCB understands and agrees that the funds disbursed under this Agreement shall be used only to renovate and repurpose the CTE building for its intended purpose as a CTE. Should the CTE renovations not be completed, be partially completed, or completed at a lower cost than originally anticipated, DCB shall return the remaining funds to the City.
 - b. Financial Records. DCB agrees to adhere to all best accounting principles and procedures, to utilize adequate internal controls, and maintain necessary source documentation for all costs that qualify for and are paid by the funding allocated by this Agreement. DCB must establish and maintain records sufficient to enable the City to determine whether they have complied with this Agreement, the CTE Lease, the CDBG-NDR Subrecipient Agreement, and all applicable federal, state, and local laws.
 - c. Access to Financial Records. DCB shall permit the City and any internal or external auditors to have access to its records and financial statements relating to the disbursement of funds under this Agreement upon request. This right also relates to timely and reasonable access to DCB's personnel for the purpose of interviews and discussion related to such records.

7. Liability and Insurance. Each party to this Agreement shall be responsible for its own acts and agrees to assume its own liability for those acts and consequences. The liability of the Board is governed by North Dakota Century Code Chapter 32-12.2 and the liability of the City is governed by North Dakota Century Code Chapter 32-12.1. DCB must maintain the insurance requirements set forth in the CTE Lease for as long as this Agreement, the CTE Lease, and the CDBG-NDR Subrecipient Agreement are in effect.
8. Miscellaneous.
 - a. Amendments. This Agreement may be amended at any time and from time to time upon written agreement of the parties.
 - b. Severability. If any paragraph of this Agreement or the application thereof shall, for any reason and to any extent, be found invalid or unenforceable, the invalid or unenforceable provision shall be deemed severed from the remainder of the Agreement, and the remaining paragraphs shall remain in full force and effect to the fullest extent of the law.
 - c. Assignments. This Agreement is personal to the parties and neither the rights nor the obligations of either party may be assigned without the written consent of the other.
 - d. This Agreement Supersedes Prior Agreements Regarding HUB City Funding for Renovations of CTE Building. This Agreement contains the parties' entire agreement, supersedes any and all prior understandings of the parties with respect to the City's allocation of HUB City funding to assist in renovating the CTE building, and is intended to be a complete and exclusive statement of the parties' commitments and responsibilities in respect to the City's allocation of HUB City funding to assist in renovating the CTE building.
 - i. Magic Fund Agreement, CTE Lease, CDBR-NDR Subrecipient Agreement. The terms and conditions in this Agreement shall not be interpreted to supersede any of the terms and conditions contained in the Magic Fund Agreement, CTE Lease, or CDBG-NDR Subrecipient Agreement.
 - e. Governing Law/Venue. This Agreement with respect to its validity and lawfulness shall be governed and construed under the laws of the State of North Dakota, and any action to interpret the terms of this Agreement shall be filed in a District Court located in Ward County, North Dakota.
 - f. Compliance with Federal, State, Local Laws. The parties agree to at all times comply and remain in compliance with all federal, state, and municipal laws while this Agreement is in effect.
 - g. Termination for Material Breach. Either party may terminate this Agreement with immediate effect by delivering notice of termination to the other party, if:

- i. the other party fails to perform, has made or makes any inaccuracy in, or otherwise materially breaches any of its obligations, covenants, or representations under this Agreement, the Magic Fund Agreement, the CTE Lease, or the CDBG-NDR Subrecipient Agreement; and/or
 - ii. the failure, inaccuracy, or breach continues for a period of five (5) business days after the injured party delivers notice to the breaching party reasonably describing the material breach.
- h. Notice. Any notice, demand, or request required or permitted to be given or made under this Agreement must be made in writing unless specifically stated otherwise in this Agreement or in any amendment to this Agreement. Notice will be deemed given when delivered in person, sent via certified mail/return receipt requested, or sent by email with confirmed receipt by the receiving party, to the Parties as specified below:
- i. CITY OF MINOT (“City”)
Attn: Finance Director
P.O. Box 5006
Minot, ND 58701
finance@minotnd.org
 - ii. STATE BOARD OF HIGHER EDUCATION (“Board”)
Terry Meyer, Chief of Staff, Chancellor’s Office
North Dakota University System Office
terry.meyer@ndus.edu
 - iii. DAKOTA COLLEGE AT BOTTINEAU (“DCB”)
Dr. Carmen Simone, Campus Dean/CEO
105 Simrall Blvd, Bottineau, ND 58318
carmen.simone@dakotacollege.edu

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT.

Dated this 23rd day of May, 2023.

Attest:

**NORTH DAKOTA STATE BOARD OF
HIGHER EDUCATION:**

By: Casey Ryan
President

By: Terry Meyer
Secretary

Dated this _____ day of _____, 2023.

Attest:

DAKOTA COLLEGE AT BOTTINEAU:

By: _____
Dr. Steven Shirley, President

By: _____
Dr. Carmen M. Simone, Campus Dean/CEO

Dated this _____ day of _____, 2023.

Attest:

CITY OF MINOT:

By: _____
Mikayla McWilliams, City Clerk

By: _____
Thomas Ross, Mayor

Approved as to form and legal sufficiency:

By: _____
Claire J. Ness
Chief Deputy Attorney General

Date: _____

North Dakota University System
2023 SBHE Self-Assessment
Priorities for Board improvement for 2023-2024

1. Communication

- The quality of communication among Board members is high. Conflict on the SBHE is managed productively.

2. Policy

- The SBHE reviews the strategic plan regularly to discuss the progress of the system toward fulfillment of the plan.

BOARD MEMBER ORIENTATION

1. Structure

- a. Current Board Members – Bios/Background
 - I. Board Officers; Officer Responsibilities; Elections (Policy 310.2)
 - Mentorship Program
 - Board Spokesperson
- b. Chancellor
 - I. NDUS Org Chart and Directory
 - II. Past, Present, and Future Challenges and Accomplishments
- c. Campus President
 - I. Institution President Authority and Responsibilities; Contract Terms (SBHE Policy 305.1)
 - II. NDUS Presidents Contact Information
 - Campus Directory
 - III. Campus Overview and Mission Statements
 - Research Institutions: NDSU and UND
 - Four-year Institutions: DSU, MaSU, MiSU, and VCSU
 - Two-year Institutions: BSC, DCB, LRSC, NDSCS, and WSC

2. Core Value and Mission / Roles and Responsibilities

- a. SBHE Policies:
 - I. 100.1 - Constitutional and Statutory Authority
 - North Dakota Century Code, Chapter 15-10
 - II. 100.4 - Mission and Vision of the State Board of Higher Education
 - Mission “To enhance economic growth, social vitality, and quality of life for North Dakota through the discovery, sharing, and application of knowledge.”
 - Vision “To lead the nation in educational attainment through access, innovation and excellence.”
 - III. 100.5 - Principles and Core Values of the State Board of Higher Education
 - IV. 100.6 - Authority and Responsibility of the State Board of Higher Education, Chancellor, and Institution Presidents
 - V. 310.1 - Board Member Responsibilities
 - VI. 304.1 - Chancellor Authority, Roles/Responsibilities
 - VII. 305.1 - Institution President Authority and Responsibilities; Contract Terms
- b. SBHE Committees and Associated Policies:
 - I. 302.1 Academic and Student
 - II. 302.2 Audit
 - III. 302.3 Budget and Finance
 - IV. 302.7 Research and Governance
 - V. Ad Hoc - Efficiencies and Opportunities

c. Other Board Committees/Appointments:

- I. Challenge Grant Fund
- II. NDUS Foundation
- III. WICHE
- IV. MHEC

3. Operational

a. Board Meetings, Agendas, and Schedule – Terry Meyer, Chief of Staff and Kristie Hetzler, Board Exec Asst

- I. Open Records and meetings, Sunshine Laws
- II. In Person vs Teams Live and logistics
- III. Use of only NDUS/SBHE email vs personal

b. Board Member Per Diem/Travel & Expense Reimbursement Forms and Guidelines

- I. SBHE Board Member Per Diem Authorization Form-(New Fiscal Year 24)
- II. Submit SBHE Reimbursement Forms. There will be a link provided to this new location where SBHE Reimbursement forms listed below will be located):
 - a. Per Diem/Travel and Expense Guidelines (updated)
 - b. Per Diem/Travel & Expense Reimbursement form (New fillable online form for Fiscal Year 24)
 - c. NDUS Authorization for Out of State Travel Form-Requires pre-approval from Board Chair prior to submission.
- III. SBHE Policies & NDUS Procedures
 - a. SBHE Policy 706.1-Board Member and Advisor Per Diem Payments
 - b. SBHE Policy 806.1-Payment or Reimbursement of Meals and other Travel or Institutional Expenses
 - i. NDUS Procedure 806.1-Payment or Reimbursement of Meals and other travel or institutional expenses
 - c. SBHE Policy 820-Waivers and Tuition Assistance
 - i. NDUS Procedure 820-Waivers and Tuition Assistance
 - ii. Student member of SBHE eligible for waiver at Institution of enrollment. Student member must contact Institution of enrollment directly to request waiver prior to term start.

c. System Office Operations by Department

- I. Academic and Student Affairs – Lisa Johnson, Vice Chancellor for Academic and Student Affairs
- II. Budget, Finance and Facility – David Krebsbach, Vice Chair for Administrative Affairs/CFO
 - BFC Annual Calendar
 - 2023-2025 Budget
 - Funding Formula
- III. Institutional Research – Jen Weber, Institutional Research
- IV. Core Technology Services – Darin King, Vice Chancellor for IT/Chief Information Officer
- V. Internal Audit – Dina Cashman, Chief Audit Executive
 - FY23 Internal Audit Plan
 - Internal Audit Brochure
- VI. Compliance – Chris Pieske, Chief Compliance Officer
 - NDUS Policy/Procedure Review Process

- VII. Human Resources – Jane Grinde, Director, Human Resources
 - Retirement Plans (401(a), 457(b), 403(b)), Executive Compensation SBHE 703.3 Retirement
 - Investment Policy Statement
 - NDUS Retirement Plan Oversight Committee Membership
 - TIAA Fiduciary Training (June)
- VIII. Strategic Planning and Communications – Jerry Rostad
 - NDUS Strategic Plan and Objectives; Institution Strategic Plans (Policy 303.2)
 - NDUS Biennial Review/Envision
 - 2021 – 2026 Strategic Plan
 - ❖ Dashboards
 - Self-assessment outcomes

4. Informational

- I. History of State Board of Higher Education
- II. Commonly used Acronyms
- III. NDUS.EDU (public website)
 - North Dakota University System | Resource Library (ndus.edu)
- IV. SBHE Policies Codification
 - 100s: Introduction
 - 300s: Governance and Organization
 - 400s: Academic Affairs
 - 500s: Student Affairs
 - 600s: Personnel
 - 700s: Compensation
 - 800s: Financial Affairs
 - 900s: Facilities
 - 1200s: Information Technology
 - 1900s: Miscellaneous
 - HR Policies
 - NDUS Procedures
- V. Insights of North Dakota (insights.nd.gov)
- VI. Legislative Cycle (interim committees vs regular session)
- VII. Association of Governing Boards (AGB) Materials

Notes: After initial on-boarding (orientation) and a few active months on the Board, new board members are offered a follow-up one on one session. The system office will work with them to arrange other stakeholder visits (ex: Governor's office/legislators/private sector businesses). New Board members are encouraged to visit all campuses, travel expenses paid through system office SBHE budget.

ND State Board of Higher Education Governance Committee Meeting

2023 Timeline

<i>Evaluation Activity</i>	<i>Proposed Date(s)</i>	<i>Status</i>
Governance Committee approves 2023 Evaluation Process and Timeline	May 17, 2023	
Survey questions updated for 2023 goals	May 17-19, 2023	
Governance Committee approves survey tool with goals updated	NA	
SBHE approves 2023 survey tool (consent agenda)	NA	
Chancellor's goal self-assessment responses are inserted into the survey tool	May 30-31, 2023	
Survey sent to SBHE voting & non-voting members	June 1, 2023	
Members complete survey. Chair Ryan may solicit additional input from other stakeholders at his discretion	June 1-15, 2023	
Survey report is prepared	June 16-20, 2023	
Survey report provided to Chair Ryan	June 21, 2023	

Chair Ryan authorizes sharing survey report with Chancellor and all SBHE members	June 23, 2023	
SBHE discusses Chancellor evaluation and contract renewal in executive session; vote on Chancellor contract renewal in open session	June 27, 2023	