

The following draft minutes have not yet been approved by the SBHE

ND STATE BOARD OF HIGHER EDUCATION

Minutes—April 3, 2008
Bottineau, North Dakota

The State Board of Higher Education met April 3, 2008, on the campus of Minot State University-Bottineau Campus in the Centennial Alumni Center. The board president called the meeting to order at 8:55 a.m. CT. Members present:

Mr. John Q. Paulsen, president	Ms. Pam Kostelecky
Mr. Richie Smith, vice president	Mr. Nate Martindale
Ms. Sue Andrews	Mr. Grant Shaft
Mr. Jon Backes	Dr. Thomas Barnhart, faculty advisor
Mr. Duaine Espesgard	

Presidents, campus deans, and campus representatives present:

Ms. Kari Knudson, BSC	Dr. John Richman, NDSCS
Dr. Richard Brauhn, DSU	Dr. Craig Schnell, NDSU
Mr. Doug Darling, LRSC	Dr. Chuck Kupchella, UND
Dr. Keith Stenehjem, MaSU	Dr. Ellen Chaffee, VCSU
Dr. David Fuller, MiSU	Dr. Joe McCann, WSC
Dr. Ken Grosz, MiSU-BC	

Staff members present:

Mr. Bill Goetz, chancellor
Dr. Marsha Krotseng, vice chancellor for strategic planning/CTEC director
Dr. Michel Hillman, vice chancellor for academic & student affairs
Ms. Laura Glatt, vice chancellor for administrative affairs
Mr. H.P. Seaworth, general counsel/executive secretary
Ms. Debra Anderson, public affairs director
Ms. Deanna Dailey, secretary

MINUTES

It was moved by Martindale and seconded by Backes to approve the minutes of the February 21, 2008, and February 27, 2008, meetings. Andrews, Backes, Kostelecky, Martindale, Shaft, Smith, Espesgard, and Paulsen voted aye. The motion carried.

BOARD PRESIDENT'S REPORT

President Paulsen thanked SBHE members and the cabinet members for their participation in the Interim Higher Education Committee meeting held on March 10, 2008.

Update on VCSU presidential search

Chairperson Sue Andrews reported that the VCSU presidential search committee intends to interview seven candidates by IVN. Five of those candidates will be brought to VCSU for an on-campus visit. Ms. Andrews said the committee will then select three finalists for interviews with the SBHE on Monday, April 21, 2008.

Ms. Andrews said the committee has requested that an FBI background check be done on the finalists, as the community is very concerned about security in light of recent events. Mr. Seaworth said that a thorough background check, including a criminal history records check, employment and degree verification, and credit report, will be completed on the finalists. He said the background check – even though it does not include an FBI report – is consistent with what is done by other colleges and universities.

It was moved by Kostelecky and seconded by Shaft to decline the VCSU presidential search committee's request for FBI fingerprint background checks on the VCSU presidential finalists. Andrews, Backes, Kostelecky, Martindale, Shaft, Espegard, and Paulsen voted aye. Smith voted nay. The motion carried.

Chancellor Goetz recommended a \$150,000-185,000 annual salary range for the next president of VCSU for SBHE approval.

It was moved by Andrews and seconded by Backes to approve the salary range for the next president of VCSU. Andrews, Backes, Kostelecky, Martindale, Shaft, Smith, Espegard, and Paulsen voted aye. The motion carried.

CHANCELLOR'S REPORT

Chancellor Goetz reported:

- Preparations are underway for the 2009-11 NDUS budget proposal, which will be discussed in more detail later at this meeting.
- The SBHE Long-Term Communication Plan has been completed and will be also be discussed at this meeting.
- He attended the March 13 meeting of the Department of Commerce cabinet where the importance of preparing young people for leadership in all sectors was discussed.
- He continues to make progress on establishing a process and a committee for considering the issue of the Fighting Sioux nickname and logo.

ND STUDENT ASSOCIATION REPORT

Mr. Nate Martindale, student member of the SBHE, and Ms. Haylee Cripe, NDSA president, reported:

- The NDSA met in March to begin preparations on their agenda for the upcoming Legislative session, as well as creating action plans outlining how to achieve their goals.
- At its April meeting, the NDSA will choose three nominees for the new student representative to the SBHE and forward those names to the governor for his consideration.
- They will soon begin to develop a student code of conduct for NDSA representatives holding any office within their organization.

COUNCIL OF COLLEGE FACULTIES REPORT

Dr. Thomas Barnhart, faculty representative to the SBHE, delivered the Council of College Faculties report. He reported:

- Dr. Jon Jackson has been nominated to be the next faculty advisor to the SBHE effective July 1, 2008.
- The CCF continues to work on the NDUS 2008 Arts and Humanities Summit which will be held at Bismarck State College on October 9-10, 2008.

BOARD BUSINESS

Board Policy Manual Revisions

It was moved by Andrews and seconded by Martindale that amended SBHE Policy 406.1 as shown on the attached draft is approved on first introduction and first reading.

Andrews, Backes, Kostelecky, Martindale, Shaft, Smith, Espegard, and Paulsen voted aye. The motion carried. Exhibit A.

It was moved by Andrews and seconded by Martindale that amended SBHE Policy 830.2 as shown on the attached draft is approved on second reading and final adoption, effective immediately.

Andrews, Backes, Kostelecky, Martindale, Shaft, Smith, Espegard, and Paulsen voted aye. The motion carried. Exhibit B.

It was moved by Andrews and seconded by Martindale that new SBHE Policy 1902 as shown on the attached draft is approved on second reading and final adoption, effective immediately.

Andrews, Backes, Kostelecky, Martindale, Shaft, Smith, Espegard, and Paulsen voted aye. The motion carried. Exhibit C.

It was moved by Andrews and seconded by Kostelecky that SBHE Policy 1914 is amended on second reading by replacing the number “60” with the number “30” in the first line in section 3, by inserting a period after the word “application” in the third line in section 3 and deleting the words “which must include requested funding, proposed new buildings, facilities, additions or other improvements, and a summary of proposed institution program or center, institute or other institution unit additions or changes” in the section, and by deleting all of section 4, and the amended policy as shown on the attached document is approved on second reading and final adoption, effective immediately.

Andrews, Backes, Kostelecky, Martindale, Shaft, Smith, Espegard, and Paulsen voted aye. The motion carried. Exhibit D.

It was moved by Andrews and seconded by Martindale that amended NDUS HR Policy Manual Section 24 as shown on the attached draft is approved on second reading and final adoption, effective immediately.

Andrews, Backes, Kostelecky, Martindale, Shaft, Smith, Espegard, and Paulsen voted aye. The motion carried. Exhibit E.

Budget and Finance Committee Recommendations

Dr. Thomas Barnhart presented the *Faculty and Staff Salary Report*, focusing on the primary goals and recommendations from the report. Currently, North Dakota faculty salaries are ranked last in the nation. The committee reports that the target is to bring NDUS faculty salaries up to 31st in the nation, as North Dakota is ranked as having the 31st highest cost of living index in the nation. This report recommends six and one-half percent increase in salaries and a \$15 million pool to be used as a “catch-up” pool. However, the NDUS budget proposal recommends a seven percent increase for faculty and staff but with no salary equity pool.

Ms. Wipf presented the *SBHE 5-4 Affordability Committee Report and Recommendations*. Discussion followed regarding the high amount of unmet need that remains for those students who would benefit the most from state-funded financial assistance for higher education. In response to a question from Mr. Backes, Ms. Wipf and Ms. Glatt responded that this report did not include recommendations on merit-based aid, although that was discussed by the committee. Ms. Wipf said the campuses do a good job with scholarship money in recruiting the ‘best and brightest.’

Ms. Glatt presented the *Financing Public Higher Education* report. She reviewed the executive summary in the report, which provides comparative funding information with other states. This report is in response to a SBHE work plan goal. A copy of the report is available in the NDUS office.

Ms. Glatt presented the 2009-11 biennial budget request listed in priority order. She explained that the Administrative Affairs Council, other NDUS councils, and the Budget, Audit, and Finance Committee (BAFC) helped to identify the initiatives in the budget proposal. In addition, the chancellor visited with each of the presidents before finalizing the proposal. At the March

25, 2008, BAFC meeting, it was suggested that the full SBHE consider and establish priority order of the initiatives.

Mr. Shaft said he feels there are general policy decisions made in the budget process which require more SBHE discussion and full SBHE consideration. Mr. Paulsen explained that he's discussed this concern with the chancellor and the BAFC to determine if there is a way to bring the SBHE into the process earlier. Mr. Smith added this has already been identified as a topic for the SBHE retreat scheduled for July 2008.

Ms. Glatt pointed out that the ability to cap tuition increases, as outlined in priority #20, is contingent upon the following budget assumptions:

1. Parity costs are fully funded
2. Campuses do not experience significant enrollment declines
3. Other budget components requests are funded (e.g., Northern Tier Network, bandwidth, etc.) so cost increases need not be absorbed within the current resource base.

Ms. Glatt said work will soon begin on the capital projects portion of the budget process. She said given recent SBHE concerns, now would be a good time to get the board's input on the process. Ms. Glatt said each campus prepares and submits a campus master plan and prioritized list of projects. She visits each campus to review their capital project requests, and, based on those visits and SBHE criteria, the chancellor recommends the capital project priority list. In the past, the campus master plans were sent to each of the board members and campuses provided campus tours during SBHE meetings. Board members, at that time, did not feel it was necessary for them to be so deeply involved in the process and instead chose to rely on system officials to review projects and bring a recommendation to the SBHE for review and approval. The board will have to make a decision on the 2009-11 capital projects priorities in June of 2008.

In response to a question from Mr. Paulsen, Ms. Glatt said she feels that even though the board does not have to approve the priority order of budget initiatives at this meeting, it is important that the NDUS budget request be in priority order before submitting the proposal to the governor. Ms. Kostelecky said the board has discussed many of these policy issues over the past year and is confident that system officials are acting in the best interest of the NDUS. There was some concern expressed that if the board gets involved in the details of these processes, it may create a situation where individual board members are advocating for certain campus' projects.

As a member of the SBHE Budget, Audit, and Finance Committee, Mr. Backes said that it's been helpful to him as a board member to understand some of the thought process that went into the initial priority ranking. Mr. Smith suggested that after this discussion regarding the budget proposal, each board member individually provide their input to the system staff. Based on that input, a priority list could be developed and presented to the board for approval at their June 19, 2008, meeting.

Dr. Chaffee suggested, and the board agreed, that each institutional president be allowed to make a brief statement to the board regarding their feelings on the budget proposal.

VCSU (Chaffee) – VCSU is appreciative of the proposal as is; however, they would like to see priority # 20 be raised higher on the list.

BSC (Knudson) – Salaries and equity funding issues are very important to this growing institution. Ms. Knudson added BSC is very supportive of the Higher Education Center and safety and security issues.

UND (Kupchella) – Dr. Kupchella said that overall, he is pleased with the proposal, particularly with the parity component. He does, however, have a problem with the equity calculation and related funding distribution.

MiSU (Fuller) – Dr. Fuller said salaries are very important in order to recruit and retain talented faculty and staff. He is also very supportive of the security enhancements and the rest of the priorities identified.

WSC (McCann) – Dr. McCann said he believes this budget recognizes the hard work of the faculty and staff in accomplishing the goals set forth by the Roundtable. He said they are having a hard time retaining staff in the western part of the state. Dr. McCann added that the endowment funds would be of great benefit to them.

LRSC (Darling) – Top priorities at LRSC are salaries, controlling tuition levels at community colleges, and the Higher Education Center in Bismarck. Dr. Darling added he feels that something similar to the Bismarck Center is needed in other parts of the state, and this shouldn't be postponed until next biennium.

NDSU (Schnell) – Dr. Schnell said he feels this budget process has been well thought out and is responsive to the campus' needs. He personally believes this is a budget that everyone, including NDSU, can support.

NDSCS (Richman) – Dr. Richman said he feels that the budget preparations have been very transparent and that he's had ample opportunity to provide input to the chancellor and the NDUS staff. He feels there should be some additional funding for workforce training.

MaSU (Stenehjem) – Dr. Stenehjem said the two main interests at MaSU are deferred maintenance and utility costs.

DSU (Brauhn) – Dr. Brauhn said DSU is very pleased with the proposal and that overall, they agree with the 21 priorities identified in the final product.

MiSU-BC (Grosz) – Dr. Grosz said he agrees with most of what's been said so far, and added he would like to see funding for security/emergencies higher on the priority list.

Mr. Espgaard said as part of the system workforce development efforts, he is particularly sensitive to statements from LRSC and NDSCS, as he believes the board will need to have a good answer when legislators ask what we are doing to address workforce development.

It was moved by Smith and seconded by Espegard to receive the Faculty and Staff Salary report; the SBHE 5-4 Affordability Committee Report and Recommendation; the Financing Public Higher Education Report; and approve the 2009-11 biennial budget guidelines with funding for two additional Rural Medicine slots at \$200,000 at the UND School of Medicine, and to reserve approval of the priority order until the June board meeting.

Andrews, Backes, Kostelecky, Shaft, Smith, Espegard, Martindale, and Paulsen voted aye. The motion carried. Exhibit F.

It was moved by Smith and seconded by Andrews to approve the State Grant Advisory Board recommendations for 2008-09, to use varying budgets for cost of attendance, including \$20,000 for private institutions, \$15,100 NDSU and UND, \$13,200 for four-year institutions, and \$11,200 for two-year institutions, including tribal colleges, and that the State Grant amount remain at \$800 per student.

Andrews, Kostelecky, Espegard, Smith, Martindale, and Paulsen voted aye. Backes and Shaft were absent. The motion carried.

Consent Agendas

Academic Consent Agenda

It was moved by Andrews and seconded by Espegard to approve the following academic requests:

- Approve MaSU's request to offer a minor in fitness and wellness program
- Approve NDSU's request to change the name of the School of Natural Resources Management to School of Natural Resources Sciences
- Approve NDSU's request to change the name of the Department of Animal and Range Sciences to the Department of Animal Sciences
- Approve NDSU's request to change the name of the Animal and Range Sciences program to Animal Sciences program
- Approve UND's request to establish the Borderlands Institute
- Approve UND's request to establish the Jodsaas Center for Engineering Leadership and Entrepreneurship

Andrews, Kostelecky, Espegard, Smith, Martindale, and Paulsen voted aye. Backes and Shaft were absent. The motion carried.

Financial and Facility Consent Agenda

It was moved by Andrews and seconded by Smith to approve the following financial and facility requests:

- Ratify chancellor's action authorizing Bismarck State College to proceed with campus alert communications. Estimated cost: \$113,520. Source of funds: \$50,000 from FY08 capital asset line item and \$63,520 from 2005-07 carryover funds.

- Approve BSC's request for approval of a joint powers agreement concerning the construction and management of a BSC Community Aquatic and Wellness Center on the campus of Bismarck State College. Exhibit G.
- Approve NDSU's request for authorization to proceed with an inter-fund borrowing transaction for the 17th Avenue Special Assessment District.
- Approve NDSU's request to increase the west dining center (WDC) HVAC replacement project authorization from \$500,000 to \$800,000. Estimated cost: \$300,000. Source of funds: Dining Services local repair and replacement funds, which have a current balance of \$1,300,000.
- Approve UND's request for authorization to proceed with leak repairs to Odegard Hall. Estimated cost: \$1,400,000. Source of funds: Facility department plant improvement funds from 2007-09 state appropriation for deferred maintenance.
- Approve UND's request to proceed with repairs to the high-voltage electrical distribution grid. Estimated cost: \$350,000. Source of funds: Facility department plant improvement funds from 2007-09 state appropriation for capital assets.
- Approve UND's request to proceed with upgrades and repairs to the ITSS emergency power system. Estimated cost: \$300,000. Source of funds: one-half of the funding coming from UND ITSS appropriated operational funds and one-half from NDUS funding for system information technology services.
- Authorize VCSU to allocate \$49,318 from 2005-07 Contingency and Capital Improvement Emergency carryover funds to VCSU for improvements to sidewalks, stairs and hand railings to address safety issues identified by OMB Risk Management.
- Ratify the chancellor's action authorizing WSC to seek Budget Section approval to increase the spending authority for the WSC Petroleum Safety and Technology Center (PS&TC) building from \$700,000 as authorized by the 2007 ND Legislature, HB 1003, to \$810,000, approve allocating \$55,000 from the 2005-07 SBHE contingency carryover fund toward the project cost and authorize WSC to proceed with the project at a total cost of \$810,000.

Andrews, Kostelecky, Espeguard, Smith, Martindale, Shaft, and Paulsen voted aye. Backes was absent. The motion carried.

Personnel Consent Agenda

It was moved by Smith and seconded by Espeguard to approve the following personnel consent agenda items:

- ♦ Accept tenure report.
- ♦ Approve tenure requests, as follows:

BSC

Brian Hushagen
Kitty Netzer
Todd Reidman
Shirley Wilson

DSU

Selma Sticha
Rolf Butz
Dr. Gary Cummisk
Scott Hanson
Marilyn Lee
Janis Neumann

LRSC

Diane Karlsbraaten

MaSU

Dr. Kathleen Champion
Dr. Pabitra Dash
Lee Kaldor
Tim O'Brien

MiSU

Dr. Alexandra Deufel
Dr. Casey Coleman
Dr. Clarine Sandstrom
Dr. Deborah Olson
Dr. Draza Markovic
Dr. Frank Moseley
Heather Golly
Dr. Laurie Geller
Dr. Margaret Sherve
Dr. Mikhail Bobylev
Dr. Patti Kurtz

NDSCS

Slade Fitzgerald
Jay Schimelfenig
Brian Wolfgram

NDSU

Dr. Xiwen Cai
Dr. Robert Hearne
Dr. Deying Li
Dr. Mohamed Mergoum
Dr. Dragan Miljkovic

Dr. Asunta Thompson
Dr. Amy Rupiper Taggart
Dr. Michael Thrasher
Dr. Michael Weber
Dr. Rajesh Kavasseri
Dr. Ghodrat Karami
Dr. Valery Marinov
Dr. Kara Wolfe
Dr. Yeong Rhee
Dr. Brandy Randall
Dr. Bryan Christensen
Dr. Ardith Brunt
Dr. Nikita Barabanov
Dr. Sylvio May
Dr. Alexander Wagner

UND

Dr. Steven Dennis
Dr. Saleh Faruque
Dr. Brett Goodwin
Dr. Emanuel Grant
Dr. Sherryl Soudek
Dr. Wen-Chen Hu
Dr. Lynda Kenney
Dr. Kimberly Kenville
Dr. Eunjin Kim
Dr. Edward Kolodka
Dr. David Lawrence
Dr. Jun Liu
Bradley Myers
Dr. Iraj Poulimamaghani
Dr. Claudia Routon
Dr. Santhosh Seelan
Dr. Nabil Suleiman
Dr. Eric Wolfe

VCSU

Dr. Hilda van Gijssel
Mr. Donald Hoff
Dr. Tanis Lovercheck-Saunders

- ♦ Approve emeritus status for Presidents Etemad, Chaffee, Vickers, and Kupchella.
- ♦ Approve an honorary doctor of law degree to Judge Myron H. Bright at North Dakota State University and an honorary doctor of science degree to Dr. Calvin Fercho at North Dakota State University.
- ♦ Approve honorary doctor of letters degrees to Ms. Jean Kiesan, Dr. Steinar Opstad, and the Honorable Edward Schafer at the University of North Dakota.
- ♦ Approve appointment of Tom Borgen for a second term on the State Board of Agricultural Research and Education.

Andrews, Kostelecky, Espesgard, Smith, Martindale, Shaft, and Paulsen voted aye. Backes was absent. The motion carried.

MAJOR POLICY DISCUSSIONS & SPECIAL REPORTS

Discussion with the Council of College Faculties

CCF president Ms. Shirley Wilson introduced Dr. Jon Jackson, faculty representative nominee to the SBHE effective July 1, 2008.

Ms. Wilson thanked the NDUS staff for their assistance with the 2008 Faculty & Staff Compensation Report.

Ms. Wilson invited everyone to the NDUS Arts & Humanities Summit being held at BSC on October 9-10, 2008. She added that if anyone is interested in submitting a proposal for the event, the deadline is April 15, 2008.

Technology Update and *ConnectND* Status Report

Mr. Thursby presented an update on the status of ConnectND and other technology issues. He said that he and Ms. Bonnie Neas have worked with Oracle during the past 1½-2 years and are pleased with the relationship that was developed during this time. Mr. Jim McGlothlin, Oracle's NDUS representative, expressed his appreciation for the support and the positive attitude conveyed by both campus and NDUS staff.

SBHE Long-Term Communication Plan

It was moved by Backes and seconded by Espesgard to table this discussion until the next SBHE meeting due to time constraints.

Andrews, Backes, Espesgard, Kostelecky, Martindale, Shaft, Smith, and Paulsen voted aye. The motion carried.

Revised MiSU-BC Institutional Mission Statement

It was moved by Backes and seconded by Kostelecky to approve the revised MiSU-BC Institutional Mission Statement.

Andrews, Backes, Espesgard, Kostelecky, Martindale, Shaft, Smith, and Paulsen voted aye. The motion carried.

Election of Officers

President Paulsen opened the floor for nominations for president. Kostelecky nominated Mr. Smith for president, seconded by Mr. Espegard. *It was moved by Backes and seconded by Kostelecky to cease nominations and cast a unanimous ballot for Mr. Smith.* Andrews, Backes, Espegard, Kostelecky, Martindale, Shaft, Smith, and Paulsen voted aye. The motion carried. Mr. Smith will assume that office on July 1, 2008.

President Paulsen opened the floor for nominations for vice president. Andrews nominated Backes for vice president, seconded by Espegard. *It was moved by Martindale and seconded by Andrews to cease nominations and cast a unanimous ballot for Mr. Backes.* Andrews, Backes, Espegard, Kostelecky, Martindale, Shaft, Smith, and Paulsen voted aye. The motion carried. Mr. Backes will assume that office on July 1, 2008.

College and university presidents' briefings on important college and university developments

Dr. Fuller told the SBHE that MiSU has recently been authorized by the Faculty Senate to adopt the Collegiate Learning Assessment (CLA) Program, which is a value-added longitudinal assessment for critical thinking, writing, and problem solving.

PUBLIC COMMENT

There were no comments.

ANNOUNCEMENTS

Announcements

Future Board Meetings

- April 21, 2008 – Valley City State University presidential interviews
- June 19, 2008 – North Dakota State University
- July 16-17, 2008 – SBHE Retreat (details to be provided)

REVIEW OF BOARD MEETING

The meeting adjourned at 4:30 p.m. CT

Executive Secretary

President

Date

**SUMMARY AND RECOMMENDATION
INTRODUCTION AND FIRST READING
AMENDED SBHE POLICY 406.1**

Summary

Following recommendations submitted by a work group comprised of system academic affairs and business officers, registrars, financial aid officers and others, the SBHE recently amended policies governing tuition and fee payment deadlines and enrollment reporting. The amendments were intended to clarify the policies and establish consistent practices at all institutions. The work group also reviewed guidelines for the system's common academic calendar, which are set out in SBHE Policy 406.1. Consistent with recommendations to clarify application of enrollment reporting and fee payment deadline policies, the work group also recommended an amendment to Policy 406.1 adding new language regarding class add and drop deadlines and the deadline for withdrawal without having grades entered on transcripts.

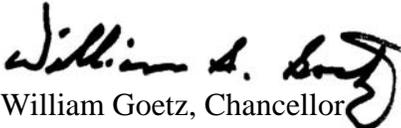
The recommended amendment will establish uniformity across the system and consistency as academic calendars are developed each year. The add/drop date is set at the 10th calendar day in the fall term and 11th day in the spring term (an extra day is added for the spring term because that term is one week longer – due to spring vacation – than the fall term). The last day to withdraw without a record is the last day of the 12th week of classes in the term.

The chancellor's cabinet concurred with the recommendation following review at a March 19, 2008 meeting.

Recommendation

I recommend the following motion be adopted by the SBHE:

“That amended SBHE Policy 406.1 as shown on the attached draft is approved on introduction and first reading.”


William Goetz, Chancellor

**NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
POLICY MANUAL**

SUBJECT: ACADEMIC AFFAIRS

EFFECTIVE: February 22, 2002

Section: 406.1 Academic Calendars

1. Except for the School of Medicine and Law, University system institutions shall operate under a common academic year calendar approved by the Chancellor. The Chancellor shall approve academic year calendars at least two years in advance and may approve a perpetual calendar.
2. Academic year calendars must include at least 160 class days, including test days, but excluding class holidays and days reserved for orientation, registration and commencement. Institutions may designate one class day before finals each semester as a reading/review day.
3. Academic year calendars are subject to the following additional guidelines:
 - a. Class holidays are Labor Day, Veterans' Day, Thanksgiving Day and the Friday following, Martin Luther King Day, Presidents' Day, and the Friday before and Monday following Easter Sunday;
 - b. Fall semester ends before Christmas;
 - c. There is at least a two week break, including Christmas and New Year's Day, between Fall and Spring semesters;
 - d. There is a one week Spring semester break beginning the Monday following 40 class days;
~~and~~
 - e. Finals week begins on a Monday unless a campus identifies the penultimate Friday of the semester as a reading/review day, in which case final exams may begin on the Saturday following the Friday reading/review day-;
 - f. Campuses may identify programs that shall continue to hold class meetings during finals week-; and
 - g. For a standard 16 week semester, the last day to add or drop a course without a record is the 10th calendar day in the fall term and the 11th calendar day in the spring term. The last day to withdraw without having grades entered is the last class day of the 12th week of classes. Add, drop and withdrawal dates for summer terms or other sessions not 16 weeks in length shall be proportionate to the standard 16-week term. Registration day is the first day of a standard 16-week academic term.
4. Campuses may adjust course meeting schedules when the holiday schedule differentially affects courses that meet once a week.

HISTORY: New policy. SBHE Minutes, June 8-9, 1983, pg 5143.
Amendment SBHE Minutes, September 24-25, 1987, pg 5632.
Amendment SBHE Minutes, September 12-13, 1989, pg 5891.
Amendment SBHE Minutes, April 17, 1998, pg 6874.
Amendment SBHE Minutes, February 21-22, 2002.

**SUMMARY AND RECOMMENDATION
SECOND READING AND ADOPTION
AMENDED SBHE POLICY 830.2**

Summary

Federal law mandates policies and procedures governing refunds to students who withdraw or drop out after classes begin and return of Title IV financial aid funds. SBHE Policy 830.2 establishes general requirements for NDUS institution refund policies and requires that each institution adopt implementing procedures consistent with the SBHE policy and federal law. Further, as instructed in Policy 830.2, the chancellor has adopted a schedule to calculate refund amounts to be returned to Title IV programs.

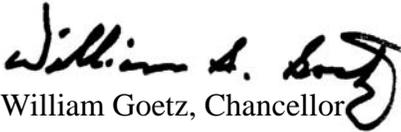
Policy 830.2 and the refund schedule the chancellor adopted do not allow for open enrollment classes, or classes for which there are not established beginning and ending dates. An example of an open enrollment class is a correspondence class for which a student may enroll at any time and complete on a schedule established by an instructor or even on the student's own schedule. The NDUS administrative affairs council recommended addressing this oversight with an amendment to Policy 830.2 authorizing institutions to adopt separate refund schedules for open enrollment classes.

The chancellor's cabinet on February 6, 2008 considered and concurred with the administrative affairs council recommendation. On February 21, 2008, the SBHE approved the amended policy on introduction and first reading

Recommendation

I recommend the following motion be adopted by the SBHE:

“That amended SBHE Policy 830.2 as shown on the attached draft is approved on second reading and final adoption, effective immediately.”


William Goetz, Chancellor

Draft January 28, 2008
NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
POLICY MANUAL

SUBJECT: FINANCIAL AFFAIRS

EFFECTIVE: September 17, 2004

Section: 830.2 Refund Policy

1. This policy applies to refunds of institutional charges to students who withdraw, drop out, are expelled from the institution or otherwise fail to complete a program on or after the first day of class of the period of enrollment for which they are charged. "Institutional charges" means tuition, fees, room, board and other education-related charges assessed the student by the institution.
2. Each institution shall adopt a written procedure to comply with requirements of federal law and implementing regulations and this policy concerning refunds to students and the Return of Title IV Funds. The written procedures shall include the allocation of refunds and unearned aid in the order specified by law. The information must be made available to current students and to prospective students (individuals who contact the institution to request information concerning admission) prior to the earlier of a student's enrollment or the execution of the student's enrollment agreement. The information shall include the procedures a student needs to follow to withdraw from the institution and the policy with which the institution is required to comply for the return of unearned institutional charges paid to the institution and a summary of the requirements for the return of Title IV grant or loan assistance and provide that refund.
3. Institutional charges shall be refunded according to a schedule approved by the Chancellor that provides for a percentage refund which approximates the amount the institution must return to the Title IV financial aid programs. Institutional refunds shall be used to reimburse Title IV financial aid only. If the amount of a student's institutional refund is less than the total amount the institution is responsible for returning to the Title IV financial aid programs, the student is responsible for the difference. In addition:
 - a. No administrative fee shall be charged;
 - b. Students who withdraw from all classes before 9% of a term is completed shall receive a 100% refund of tuition and fees.
 - c. Students with a room contract who withdraw shall receive a refund prorated up to the sixty percent point of the enrollment term according to a schedule approved by the Chancellor. Students with a board contract who withdraw shall receive a refund of the board contract amount according to a schedule approved by the Chancellor.

4. Allocation of unearned aid shall be consistent with federal law. Any balance after allocation to sources of aid and payment of the student's accounts shall be returned to the student.
5. Any student who withdraws during the term for reasons beyond the student's control may request waiver of the tuition and fee refund schedule. The chief financial officer (or designated representative) is authorized to determine, consistent with applicable federal law, the amount of the refund in such cases.
6. This refund policy shall not apply to deposits which may be subject to forfeiture under housing contracts or program admission policies.
7. Any student who drops a class before 9% of the period of enrollment for the class is completed shall receive a 100% refund of tuition and fees for the credit hours attributable to the class or classes dropped. After 9% of the period of enrollment for a class is completed, no refund shall be made for a class which is dropped. However, classes of the same number of credits may be substituted for the dropped class at no additional tuition and fee charge, unless the added class requires a special fee or change in tuition. If adding classes results in any change in number of credit hours or if an added class requires a special course fee or additional tuition charge, the institution shall charge the student for the additional credits and any special course fee or tuition. Institution refund procedures shall include provisions governing allocation or repayment of refunds for dropped classes.
8. Subject to compliance with applicable federal law, institutions are authorized to adopt a separate refund schedule and drop dates for open enrollment classes, in which case the institution procedure and not schedules or deadlines set out in this policy or approved by the chancellor applies. An "open enrollment" class is one for which there is not an established beginning and ending date. An example of an open enrollment class is a correspondence class for which a student may enroll at any time and complete on a schedule established by the instructor or on the student's own schedule.

EFFECTIVE DATE: This policy is effective with the beginning of the 2004 fall semester at BSC, DSU, LRSC, MaSU, NDSCS, VCSU and WSC and on July 1, 2005 at MiSU, MiSU-B, NDSU and UND.

REFERENCE: 34 CFR Part 668

HISTORY: Replaces Article IV, Section G, page IV-5.
Amendment State Board of Higher Education Minutes, May 17, 1991, page 6125.
Amendment May 27, 1993, SBHE Minutes, page 6361.
Amendment January 25, 1996, SBHE Minutes, page 6610.
Amendment February 21, 1997, SBHE Minutes, page 6733
Amendment June 16, 2000, SBHE Minutes.
Amendment September 16, 2004.

SUMMARY AND RECOMMENDATION SECOND READING AND ADOPTION NEW SBHE POLICY 1902

Summary

As a result of recent tragedies such as the one at Virginia Tech, emergency notification systems have been the focus of increased attention in higher education. Higher education institutions around the country have reviewed emergency notification policies and procedures and many institutions that did not previously have an emergency notification system have implemented or are planning on implementation of such systems. NDUS institution officials, like their counterparts in other states, are anxious to implement systems and procedures for added safety of students and employees.

There are a number of vendors that sell emergency notification systems that permit distribution of emergency messages to large groups of (or all) employees and students via cell-based calls and text messages. Two NDUS institutions – BSC and Minot State – have signed contracts with one vendor, ConnectED. OMB Office of Risk Management negotiated a contract with another vendor for a system called NotiFind. Costs to extend the NotiFind system to all NDUS employees will be paid by OMB. However, NDUS institutions must pay a fee to extend the service to students and OMB negotiated a reduced fee for the student charges.

Recently, I asked that a system work group including representatives of each institution and chaired by Vice Chancellor Glatt develop recommendations. The work group has been meeting on a regular basis for several months. Following much investigation and discussion, representatives of nine NDUS institutions (all except BSC and Minot State) favored signing contracts for the NotiFind service (BSC and MiSU will consider moving to NotiFind at the conclusion of existing ConnectED contract terms). Although there were concerns regarding NotiFind's current lack of true text messaging capability because that is critical for student contacts, the vendor will provide a money-back guarantee that text messaging will be added to the system by September 2008. Following resolution of this and other contract issues, the state has signed a contract with the vendor extending the NotiFind service to the nine NDUS institutions interested in that service at this time.

As the next step in implementing emergency notification systems, the work group recommends adoption of the attached new SBHE Policy 1902. The policy requires implementation of an emergency notification system at each institution and the system office not later than the fall 2008 semester. All NDUS employees will be required to participate.

For students, participation will be voluntary, because students will have an opportunity to "opt-out" by declining to provide necessary emergency contact information. NDUS student representatives favor this approach. There was lengthy discussion regarding this issue with some institution officials favoring mandatory student participation. Institutions

in other states that considered mandatory student participation have encountered strong resistance from students and most higher education institutions have elected to not require student participation, choosing instead to have students “opt-in” (take affirmative steps to participate) or “opt-out” (students participate unless they take affirmative action to decline participation).

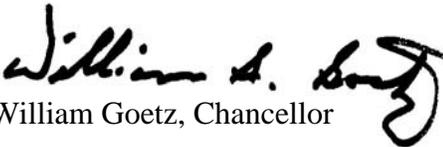
The policy draft was distributed for review by NDUS councils (administrative affairs, academic affairs, student affairs and human resource councils) and the ND Student Association and Council of College Faculties. The chancellor’s cabinet reviewed a policy draft on February 6, 2007 and following discussion reached consensus on supporting the attached policy recommended by the work group. The SBHE approved the policy on introduction and first reading on February 21, 2008.

In addition to the notification system, other safety and security measures will be needed to ensure that all reasonable measures are taken to ensure student and employee safety. Some measures will be tailored to meet unique campus needs. NDUS institution representatives continue to work together to examine various options and solutions.

Recommendation

I recommend the following motion be adopted by the SBHE:

“That new SBHE Policy 1902 as shown on the attached draft is approved on second reading and final adoption, effective immediately.”


William Goetz, Chancellor

Date of Meeting: February 21, 2008

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**NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
POLICY MANUAL**

SUBJECT: MISCELLANEOUS

EFFECTIVE:

Section: 1902 Emergency Notification Systems

1. Effective with the beginning of the fall 2008 semester, each institution and the NDUS office shall have in place an emergency notification system. An “emergency notification system” means a system established for the purpose of and dedicated to enabling institution or system officials to quickly contact or send messages to employees and students in event of an emergency. An “emergency” means a situation that poses an immediate threat to the health or safety of someone in the institution or system community or significantly disrupts institution or system programs and activities.
2. All NDUS employees, including student employees, shall participate in the emergency notification system. Participation means employees shall submit emergency notification information and update that information as provided in the institution’s or system’s emergency notification system policy and procedures.
3. Students other than student employees shall participate in the emergency notification system unless they “opt-out.” Students shall submit emergency notification information and have an opportunity to “opt-out” during registration or as otherwise provided under an institution’s emergency notification system policy or procedures.
4. Employee emergency notification telephone numbers or other emergency notification information is exempt from the state’s open records laws as provided in Policy 1912 and may be released only as provided in that policy. Student emergency notification information, or contact information such as phone numbers or email addresses submitted for purposes of participation in an emergency notification system, shall be excluded from directory information and is therefore confidential as provided under the Family Educational Rights and Privacy Act (FERPA). However, if a student phone number or email or other address submitted for the purpose of participation in an emergency notification system is also contained in other institution records used for other purposes, the information contained in the other institution records is directory information and not confidential, unless a student has exercised the student’s right to refuse to permit disclosure of directory information.
5. Each institution shall adopt an emergency notification system policy and implementing procedures including:
 - a. Statement that employee participation is mandatory;
 - b. Provision for student participation and “opt-out;”
 - c. Restrictions on use only for an emergency as defined in this policy and authorized tests, which must be conducted at least once each semester;

- d. Policy governing student use of cell phones in class, including a provision permitting instructors to require students to turn cell phones off in class only if the instructor has a registered cell phone or other phone or other means of receiving emergency messages in use at all times students are required to turn their cell phones off;
 - e. Procedures governing updates and refreshing data, including a requirement that data be refreshed at least once each semester;
 - f. Identification of officials authorized to activate the system;
 - g. Instructions to employees and students for reporting emergency situations or incidents, including offices and telephone numbers of designated officials to whom emergency situations or incidents should be reported;
 - h. Guidelines regarding notice to or contacts with media;
 - i. Procedures for additional notifications as appropriate depending on circumstances.
6. Institution policy and procedures, including all updates or revisions, shall be filed with the system office.
 7. The chancellor shall adopt an emergency notification procedure for the NDUS office, including a system for notifying office employees of an emergency specific to the office and for notifying key institution employees or designated institution emergency contacts as necessary or appropriate.
 8. Subject to review and approval of the NDUS CIO, institutions may contract with a vendor or vendors for provision of emergency notification systems. If warranted based on consideration of administrative efficiencies and cost, the chancellor may require a single, uniform system for all institutions.

HISTORY: New Policy

REFERENCE:

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SUMMARY AND RECOMMENDATION SECOND READING AND ADOPTION AMENDED SBHE POLICY 1914

Summary

NDCC chapter 15-69 establishes a centers of excellence (COE) program for economic development. Funds are allocated under a process that starts with NDUS institution applications to the department of commerce and continues with approval by the COE commission, SBHE, commerce foundation and budget section. Until 2007, the NDUS provided staff support for the program. The chancellor was informed because the chancellor's office assisted institutions with applications. However, in 2007 the legislature transferred staff support responsibility to the department of commerce.

Although chapter 15-69 provides for SBHE approval of funding awards, SBHE involvement takes place following submission of applications and action by the COE commission. The current process does not provide an opportunity to address SBHE or system concerns before an application is submitted. There is nothing in place to guard against two institutions devoting resources to develop similar proposals or an institution submitting a COE application perceived by another NDUS institution to unnecessarily duplicate something already happening at the other institution.

New SBHE Policy 1914 is intended to address these concerns. The policy states that institutions shall keep the chancellor informed and provide information regarding COE applications upon request. Further, prior to filing a COE application, institutions shall provide the chancellor with a brief synopsis. If the chancellor has concerns the chancellor discusses them with institution officials. If the concerns are not resolved, the chancellor is to inform the SBHE president so the SBHE may meet to review and approve or disapprove the application.

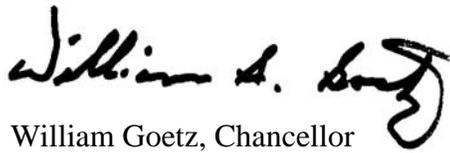
The chancellor's cabinet reviewed the policy and one president's representative (NDSU VP) expressed reservations. The consensus of the cabinet is support of the policy.

The SBHE approved the policy on introduction and first reading on February 21, 2008. As introduced, the policy requires that institutions provide to the chancellor a brief synopsis of COE applications 60 days prior to filing applications. This 60-day deadline probably does not allow sufficient time to develop the proposals. Particularly in legislative years, funding amounts and procedures governing applications may not be known until 75 or 80 days prior to an application deadline. Therefore, I recommend an amendment providing that the deadline for submitting information to the chancellor is 30 days – not 60 days – prior to the application deadline. In addition, I recommend amendments removing language in sections 3 spelling out what must be included in the brief synopsis the institutions submit to the chancellor and all of section 4, which establishes procedures for chancellor review. I believe it is best to have an informal process without detailed procedures that might add to administrative burdens.

Recommendation

I recommend the following motion be adopted by the SBHE:

“That SBHE Policy 1914 is amended on second reading by replacing the number “60” with the number “30” in the first line in section 3, by inserting a period after the word “application” in the third line in section 3 and deleting the words “which must include requested funding, proposed new buildings, facilities, additions or other improvements, and a summary of proposed institution program or center, institute or other institution unit additions or changes” in that section, and by deleting all of section 4, and the amended policy as shown on the attached document is approved on second reading and final adoption, effective immediately.”

A handwritten signature in black ink that reads "William D. Goetz". The signature is written in a cursive style with a large, stylized 'G' at the end.

William Goetz, Chancellor

Date of Meeting: April 3, 2008

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**NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
POLICY MANUAL**

SUBJECT: MISCELLANEOUS

EFFECTIVE:

Section: 1914 Centers of Excellence Applications

1. NDUS institutions may submit applications for centers of excellence funding according to chapter 15-69 of the North Dakota Century Code and this Policy 1914.
2. Presidents shall keep the Chancellor informed and upon request provide informal reports to the Chancellor regarding plans for centers of excellence applications as those plans are developed.
3. At least ~~60~~ 30 days prior to submission of a centers of excellence application to the department of commerce, the institution or institutions planning to submit the application shall submit to the Chancellor a brief synopsis of the application, ~~which must include requested funding, proposed new buildings, facilities, additions or other improvements, and a summary of proposed institution program or center, institute or other institution unit additions or changes.~~
4. ~~The Chancellor shall review whether applications are consistent with institution missions and approved programs and degrees and avoid unnecessary duplication with existing programs and other applications. The Chancellor shall notify the institution president or presidents if there are no concerns. If the Chancellor has concerns, the Chancellor shall notify the institution president or presidents of the concerns and attempt to resolve those concerns with institution officials. If the Chancellor's concerns are not resolved and an institution proposes to go forward with an application, the Chancellor shall inform the Board of the concerns. The Board President then shall schedule a Board meeting prior to the application deadline to discuss the concerns and for Board action authorizing or denying authorization for the application.~~
5. An institution may proceed with an application to the department of commerce following chancellor review and notification the Chancellor does not have concerns. If the chancellor notifies the Board of unresolved concerns, an institution may proceed with application to the department of commerce only with Board approval.

HISTORY: New Policy

REFERENCE: N.D.C.C. chapter 15-70

**SUMMARY AND RECOMMENDATION
SECOND READING AND ADOPTION
AMENDED NDUS HR POLICY MANUAL SECTION 24**

Summary

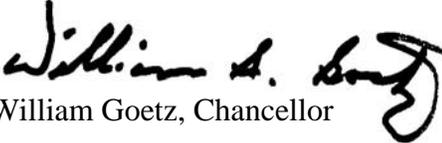
NDUS HR Policy Manual Section 24 establishes a reduction in force policy. The NDUS HR Council recently reviewed the policy and recommended several edits intended to update and clarify policy terms. None of the suggested edits are substantive.

The chancellor's cabinet reviewed the recommended changes at a February 6, 2008 meeting and expressed no concerns. The SBHE approved the amended policy on introduction and first reading on February 21, 2008.

Recommendation

I recommend the following motion be adopted by the SBHE:

“That amended NDUS HR Policy Manual Section 24 as shown on the attached draft is approved on second reading and final adoption, effective immediately.”


William Goetz, Chancellor

NORTH DAKOTA UNIVERSITY SYSTEM HUMAN RESOURCES POLICY MANUAL

24. REDUCTION IN FORCE

24.1 - When necessary to achieve a reduction in force, institutions may terminate or reduce from full to part-time or hours worked of any staff employee due to an organizational or procedural change, diminished workload, lack of funds, or other exigency. The employee shall be given at least two weeks written notice of the reduction. At the institution's discretion, employees who are terminated may be given two weeks pay in lieu of the two weeks notice.

24.2 - Institutions shall not subject regular staff employees (see Section 2.2) to a reduction in force while there are temporary or probationary employees engaged in the same work, serving at the same work unit.

24.3 - Institutions shall conduct reductions in force in a non-discriminatory manner (see Section 1.2) and shall not use such actions as a substitute for disciplinary measures.

24.4 - Based upon departmental need and work to be performed, the department head shall determine which employees will be subject to reduction in force. In determining which employees shall be terminated affected, the department shall consider the following:

1. An analysis of the acquired knowledge, demonstrated skills, and versatility of its employees compared to the work to be done and the available funding. Employees lacking the necessary skills and versatility should be considered for reduction.
2. An analysis of the level of demonstrated work performance. Employees having a consistently low level of performance should be considered for reduction.
3. A review of the length of service of its employees. Employees with the fewest years of service should be considered for reduction.
4. An analysis of the extent of required training needed to train a reassigned employee to full productivity in a different position. Employees requiring substantial retraining should be considered for reduction.
5. Any documented understandings concerning the position in place at the beginning of employment.

24.5 - The department shall maintain written documentation of the required analysis and review in Section 24.4.

24.6 - Rehiring of employees terminated ~~as a result of a reduction in force~~ or reducing hours worked shall be in the reverse order of ~~layoff~~ the reduction in force when a similar job

NDUS Human Resources Manual
Section 24. Reduction in Force, Cont'd.

becomes available in their former department within two years from the date of ~~termination~~
the action.

NDUS Human Resources Manual
Section 24. Reduction in Force, Cont'd.

24.7 - Employees not on probation when terminated as a result of a reduction in force and rehired within two years shall be credited with:

1. Previous service for the purpose of determining annual leave accrual rates.
2. Sick leave hours accumulated prior to the reduction, less the amount paid pursuant to Section 7.5 of this manual.

24.8 - Employees not on probation when terminated as a result of a reduction in force shall, for two years following the reductions, be provided the following additional services:

1. To the extent possible, institutions will assist terminated employees in searching for other employment.
2. The Human Resource Council shall maintain a list of employees, including their qualifications, who were terminated due to a reduction in force. This list shall be made available to all institutions for employment considerations. Individuals from this list shall be treated as internal applicants by the hiring institution.
3. To assist in retraining efforts, employees terminated due to a reduction in force may continue to utilize the North Dakota University System's employee tuition waiver as defined in Section 33 of this manual.

History:

Amend. Sec. 24.1 SBHE Minutes, December 2, 1985, pg 5433.

Amend. Sec. 24.2, 24.5, 24.5.1, 24.5.2; SBHE Minutes, February 6, 1986, pg 5442.

Amend. Sec. 24, 24.1, 24.2, 24.2, 24.3, 24.4, 24.5, 24.6 SBHE Minutes, June 20-21, 1991, pg 6143.

Amend. Sec. 24 SBHE Minutes, December 17, 1992, pg 6312.

Amend. Sec. 24.2, 24.4, 24.5, 24.6, 24.8 SBHE Minutes, March 20, 1997, pg 6744.

Amend. Sec. 24.8 SBHE Minutes, May 12, 1999, pg. 6984

Amend. Sec. 24.7, 24.8, SBHE Minutes, January 15, 2004.

NORTH DAKOTA

UNIVERSITY SYSTEM

The Vital Link to a Brighter Future

TO: Members, State Board of Higher Education

FROM: Laura Glatt, Vice Chancellor for Administrative Affairs



DATE: March 25, 2008

RE: 2009-11 Biennial Budget Request

Memo #M-08-09

The SBHE Budget, Audit and Finance Committee met yesterday to consider the Chancellor's biennial budget recommendation. As background, the committee heard reports on faculty and staff salaries, student affordability and national higher education funding comparisons. These reports are also included on your April agenda.

The Committee endorsed the Chancellor's budget proposal as outlined in the attached document, with one exception. The numbers assigned in column one of the budget overview are intended to represent priority order. Historically, the executive and legislative branches have looked to the SBHE for guidance on priorities, in the event the full budget request is not funded. The Committee recommended that the priorities be discussed and considered by the full Board, following discussion at the April meeting.

Based on this we intend to present the budget in more detail at the April 3rd meeting and answer any questions. At the April meeting, it will be important for the SBHE to determine what remains or does not remain on the list and the related dollar amounts so campuses can begin to develop the more detailed budget proposals for submission to OMB. Following the April SBHE meeting, we will survey each SBHE member to gather your input on the priority order of the various budget initiatives. This information will be compiled and used by the Chancellor in forwarding a final prioritized list to you for consideration and approval at the June 19th meeting.

At the June SBHE meeting, you will also be asked to approve a rank prioritized list of major capital projects for inclusion in the 2009-11 budget request, as recommended by the Chancellor. Campuses will be submitting their campus master plans by the end of March outlining their capital needs and priorities. Review of these plans and campus visits will be conducted in April and May in order to gain a better understanding of needs and specific projects.

If you have any questions on the budget proposal or the process, please feel free to contact me at laura.glatt@ndus.nodak.edu or by phone at 328-4116.

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State Capitol - 600 E. Boulevard Ave., Dept. 215, Bismarck, ND 58505-0230
Phone: 701.328.2960 • Fax: 701.328.2961
E-mail: NDUS.office@ndus.nodak.edu • Web: www.ndus.nodak.edu

The North Dakota University System is governed by the State Board of Higher Education and includes:
Bismarck State College • Dickinson State University • Lake Region State College • Mayville State University •
Minot State University • Minot State University-Bottineau Campus • North Dakota State College of Science •
North Dakota State University • University of North Dakota • Valley City State University • Williston State College.

NDUS - 2009-11 BIENNIAL BUDGET REQUEST
SBHE Budget, Audit and Finance Committee Recommendation

3/27/08 8:04 AM

(1) (2) (3)

(4)

	Policy Objective	Budget Initiative	Amount
	07-09 Base Funding		\$441,456,162

BASE FUNDING INCREASES

		Decreased capital bond payments (\$3.4 M), CIS pool transfer to ITD for IVN (\$300,110), and vet loan forgiveness transfer to Health Dept.	
1	Enhance Student Preparation	(\$100,000)	(3,800,110)
2	Enhance Student Preparation	100% of Parity/cost to continue/7%/7% salary and health insurance increases/utilities	57,346,080
3	Enhance Student Preparation	Replace one-time parity funding for SITS Pool	420,000
4	Maintain Student Affordability	Needs-based financial aid	14,056,000
5	Increased Effectiveness and Efficiency	NDUS Office Legal Assistant	128,930
6	Enhance Student Preparation	Network Bandwidth	800,000
7	Maintain Student Affordability/Enhance Student Affordability	Equity adjustment to address funding differentials (15%)	18,500,000
8	Enhancing the Economy and Student Preparation	EPSCoR research matching funds	800,000
9	Increased Effectiveness and Efficiency	Access, Collaboration and Enhancement Fund (ACE)	1,750,000
10	Increased Effectiveness and Efficiency	Continuation of FINDET	155,320
11	Increased Effectiveness and Efficiency	Shared recruitment initiatives	500,000
12	Enhance Student Preparation	Disabled Student Services Funding	150,000
13	Enhancing the Economy and Student Preparation	Northern Tier Network maintenance costs	1,000,000
14	Maintain Student Affordability and Accessibility	Student Financial Asst. Programs (Scholar's, PSEP, Indian, Education Loan Forgiveness)	803,000
15	Enhance Student Preparation	ODIN Web Developer	150,000
16	Enhancing the Economy	New Academic and Technical Program Start-up Revolving Fund	1,000,000
17	Enhance Student Preparation and Retention	Enhanced Academic and Career Advising	1,500,000
18	Ensure Student Safety	Emergency Preparedness/Security	1,334,900
19	Enhance Student Preparation	College Access Grant Matching Funds	220,000
20	Maintain Student Affordability	Two and Four-Year college affordability	12,587,040
21	Promote Student Accessibility	Bismarck HE Center	630,000
TOTAL BASE FUNDING INCREASE			110,031,160
Percentage Increase over 07-09			25%

ONE-TIME FUNDING INCREASES

		Deferred Maintenance (\$50.0 M facilities and infrastructure and \$4.0 M teaching and research laboratories)	
1	Enhance Student Preparation		\$54,000,000
2	Promote Student Accessibility	IVN CODEC Replacement	350,000
3	Enhancing the Economy and Student Preparation	State Matching Endowment Pool	50,000,000
4	Promote Student Accessibility	Bismarck HE Center	4,500,000
5	Increased Effectiveness and Efficiency	SITS Collaboration and Emergency Pool	200,000
6	Ensure Student Safety	Emergency Preparedness/Security	20,642,000
7	Increased Effectiveness and Efficiency	Pay-off special assessments	2,162,235
TOTAL ONE-TIME FUNDING INCREASE			131,854,235

NDUS - 2009-11 BIENNIAL BUDGET REQUEST
SBHE Budget, Audit and Finance Committee Recommendation

	Budget Initiative	Amount
OTHER FUNDING PRIORITY INCREASES		
UND SOMHS-Base Funding		
Stabilize operations of the Bismarck and Minot Centers for		
1	Family Medicine (CFM)	\$1,275,000
2	Implement Electronic Medical Records System for CFMs for training (combination of base and one-time funding)	225,000
3	Implement new master's in public health degree	1,133,600
4	Create RuralMed program- Funded tuition scholarship to encourage students into family medicine rural practice	400,000
5	Develop and implement comprehensive health care delivery plan for the State of ND	707,850
6	Enhanced prevention training and focus on geriatrics	1,074,450
TOTAL Base Funding Request Increase		4,815,900
Percentage increase over 07-09 base funding appropriation		15%
Parity-reflected in UND's figures in priority 2 on previous page		\$3,888,072
Equity-reflected in UND's figures in priority 7 on previous page		\$1,071,025
TOTAL Base Funding Request Increase, Including Parity and Equity		\$9,774,997
Percentage increase over 07-09 base funding appropriation including parity		28%
SOMHS - One-Time Funding		
Retire Minot CFM bond debt		4,000,000
NDSU Ag Extension and Research, NCI, UGPTI - Base Funding		
1	Funding Increase to support SBARE-identified priorities	16,214,300
		24%
NDSU Ag Extension and Research, NCI, UGPTI - One-Time Funding		
1	Deferred Maintenance (50%)	2,214,850
2	IVN equipment replacement	132,000
Total One-Time Funding Increase		2,346,850
NDSU Forest Service - Base Funding		
1	Replace lost federal forestry funding	826,284
2	Program Enhancement-10% base funding increase	292,565
TOTAL Base Funding Request Increase		1,118,849
Percentage increase over 07-09 base funding appropriation		46%
Other - Base Funding		
KSU Veterinary Medicine Slots (funded through Stdnt. Loan Trust)		990,970
CND-Campus Solutions Positions (funded through Stdnt. Loan Trust)		1,030,000
Workforce Training (CTE Budget)		3,000,000
Centers of Excellence (Dept. of Commerce Budget)		20,000,000

Summary Description of 09-11 Budget Request Priorities SBHE Budget, Audit and Finance Committee Recommendation – March 26, 2008

Eleven Institutions and NDUS Office

Base Funding

Priority 1: Bond payments for state general fund obligation bonds issued through the Industrial Commission will be \$3.4 million less in 09-11. This reduction in bond payments allows the \$3.4 million to be reallocated to other budget priorities. The NDUS will transfer \$100,000 to the State Health Department who administers the Veterinary Loan Forgiveness Program and \$300,110 will be transferred from the CIS Pool (now referred to as SITS) to ITD as the administration of K-12 IVN services has been transferred to ITD.

Priority 2: Parity: Includes cost to continue for the state share of parity only as notes below. The student share of parity costs would be funded through tuition rate increases, except as noted below in priority 20:

- 08-09 salary increase @5%
- 09-11 salary increase of an average 7% per year. Based upon an assumed annual market increase of 3 percent per year, the NDUS would reach the regional market average salary in five years with annual 7% increases from FY10 through FY14. Other options considered and the incremental cost difference to the Chancellor's recommendation is as follows: 5%/5% (-\$9.6 million), 5%/6% (-\$8.0 million), 6%/6% (-\$4.8 million), 6.5%/6.5% (-\$2.4 million), 6%/7% (-\$3.2 million), faculty and staff compensation committee report of 6.5%/6.5% plus \$15 million equity pool (\$+12.6 million)
- 09-11 health insurance increase of 10% per year or \$136.53 per month. Total projected premium of \$794.61 per month per employee.
- Operating inflation, excluding utilities of 2.0% for FY10 and 2.2% for FY11, based on projections from Economy.Com.
- The projected utility cost increases, of \$7.4 million, which is equivalent to a 14.8% increase in the utility budget—the state share of this increase is \$4.7 million. **Note:** This is an exception to the SBHE approved LTF Plan, which required utility cost increases to be calculated at the standard inflationary increase, similar to other operating expenses.
- Utilities for new facilities coming on-line in 09-11 at BSC, UND, NDSU, NDSUS, WSC, and DSU of about \$910,000, of which \$607,400 is the state share.
- Includes funding of \$378,630 for 09-11 salary and health insurance cost increases for CND positions which are currently funded from the CND student fee. This will help to control the amount of the student fee in 09-11.

Priority 3: SITS pool (formerly CIS pool)

In 07-09, \$420,000 of the parity funding for the System Information Technology Services (SITS) pool was funded with one-time funding. This base funding will replace the one-time funding to address on-going base costs such as campus bandwidth.

Priority 4: State Grant Program

Consistent with the SBHE 5-4 Affordability Committee recommendation funding a funding increase of \$14,056,000 is included to fund all students who demonstrate unmet need of \$800 or more and who meet all other state and/or federal eligibility requirements and increasing the award amount in 09-11 at the same rate as tuition. This would fund about 7,850 students per year, compared to the current 4,075 students.

Other options considered and the incremental cost difference to the Chancellor's recommendation is as follows:

- Fund all students who demonstrate unmet need of \$800 or more meeting the March 15th priority deadline and who meet all other state and/or federal eligibility requirements and increasing the award amount in 09-11 at the same rate as tuition (-\$7.7 million).
- New program to fund a \$500 needs-based grant for 25% of the part-time students, defined as those taking 6-11 credit hours or an estimated 1,100 students per year (+\$1,650,000).
- New program to fund a \$500 needs-based grant for 50% of the part-time students, defined as those taking 6-11 credit hours or an estimated 2,100 students per year (+\$3.3 million).
- Increase grant award from \$800 to \$1,000 and fund the same number of awards as 07-09 (-\$12.42 million).

Priority 5: NDUS Office Legal Assistant: Fund a new 1.0 FTE position and related operating costs to assist SBHE and campuses with contract review, HR issues, policy and procedure development and advice and other legal issues.

Priority 6: Network bandwidth: Network bandwidth: Funding to cover I1 bandwidth costs through ITD and increased institutional bandwidth needs through StageNet in 09-11, based on projected traffic growth of 50% which is conservative based on national trends. Also, ITD is now asking that we pay 65% of Internet1 costs versus 50% as in the past.

Priority 7: Equity funding to address peer differentials. The LTF Plan requires a minimum of 15% of the total new funding be allocated to equity, after full funding of the state share of salaries and benefit cost increases in parity (note: the student share of parity would be funded through tuition rate increases). This proposal recommends 15% allocated to equity distributed based on the previously approved SBHE allocation model—the average of the weighted percentage distance from peers and dollar distance from peers—with a minimum of 52% of peers or \$250,000. **Note:** The 52% minimum or \$250,000 is an exception to the previously approved SBHE plan, but is intended to address those campuses funded furthest from their peers and recognize the high fixed costs of the smaller campuses.

Priority 8: Provides additional state matching funds through the EPSCoR program to generate an additional estimated \$1.6 million in federal funding.

Priority 9: Access, Collaboration and Enhancement (ACE) Fund: Funding to be allocated by the SBHE, based on the Chancellor's recommendation, to be used in support of strategies which further academic excellence, access, affordability, accountability, and alignment goals.

Priority 10: FINDET: Staff and related operating costs to continue support of the current 2.0 FTE positions who provide information on graduates and student performance. This level of funding will also provide 100% of the support for this activity in the NDUS Office budget from state funding sources.

Priority 11: Shared Recruitment Initiatives. Funding to support collaborative recruitment efforts among all NDUS campuses. This could include enhanced marketing and promotional efforts with middle and high school students, coordinated efforts to identify and recruit in viable markets and funding to support other innovative cooperative recruiting efforts.

Priority 12: Disabled Student Services Funding: Contingency funding to address unexpected institutional costs associated with providing services to disabled students, in addition to program funding at the campus level. Historically, this funding was a separate line item in the NDUS Office budget. Later, OMB merged the separate line item into the SBHE Initiative fund. The SBHE continued to set aside a portion of its Initiative Funding in support of disabled student services. However, the SBHE Initiative funding was eliminated in 07-09, thereby eliminating the primary source of funding for this activity.

Priority 13: Northern Tier Network (NTW) Costs. Funding to cover FY11 maintenance costs. Costs for FY10 will be covered from 07-09 NTW carryover funds.

Priority 14: Student Financial Assistance Programs-Scholar's Program, Professional Student Exchange Program (PESEP), Education Incentive Program, and Indian Scholarship.

- Funding to continue current students, plus 50 new slots per year in the Scholar's Program, the same number of new slots as the current biennium-cost \$450,000
- Funding to continue the current students plus the following estimated number of new slots per year: 7 vets., 8 dentist, 4 optometrist-cost \$193,000.
In addition, the NDUS will request \$990,970 from the student loan trust fund to support currently enrolled students plus 5 new slots per year under the Kansas State University veterinary medicine program.
- As part of the education incentive program, increase the grant award from \$1,000 to \$2,000 for new teacher shortage program recipients and add 20 new slots per year for counselors at \$2,000 each-cost \$160,000.

Other options considered and the incremental cost difference to the Chancellor's recommendation are as follows:

- Increase from 50 to 60 the number of new Scholar's Program awards per year. (+\$211,000)
- Implement a new program to provide a \$500 merit-based scholarship to students with an ACT of between 24-28. (+\$2.175 million)
- Increase the number of optometry slots from 4 to 8 per year, based on student interest. (+\$135,000)
- Increase funding for all teacher shortage program recipients from \$1,000 to \$2,000, plus add 20 new slots for counselors at \$2,000 each. (+\$475,000)

Priority 15: ODIN Web Developer position to enhance and ease the use of the library system so the user can spend more time on the material and less time on how to find it, including commercial databases of journals and other academic materials.

Priority 16: New Academic and Technical Program Start-Up Revolving Fund: New program start-up revolving fund, allocated on a one-time funding basis, to assist campuses with program start-up costs until the program generates sufficient enrollment and revenues. This base appropriation would be available in ongoing biennia to allocated to other program areas.

Priority 17: Enhanced Academic and Career Advising. Establish a partnership initiative with K-12, involving the Rural Education Associations (REA), where appropriate, to: 1.) address professional development needs; 2.) establish seamless K-16 advising; 3.) raise student awareness of career opportunities in ND involving the private sector; and, 4.) increase utilization of internships as a means of connecting students to careers.

Priority 18: Emergency Preparedness /Security: Provides funding for additional campus security at a ratio of 1 FTE to 900 students. Also, adds public safety officers to assist with campus planning and implementation of the emergency notification system, emergency response plans, continuum of government (COG) and other activities as follows: (1.0) FTE position shared by BSC, DSU and NDUS-Office; (1.0 FTE) position shared by MiSU, MiSU-BC, (2.0) FTE positions shared by UND, LRSC, and MaSU; and, (2.0) FTE shared by NDSU, NDSCS, and VCSU. Also includes funding to cover the annual fee for the NotiFind emergency notification system for students.

Priority 19: State funding (1/3) required to match new federal College Access Challenge Grant program (2/3). This program assists states in creating a coordinated strategy for improving preparation for and access to college for low-income students.

Priority 20: Two-Year and Four-Year College Affordability. Funding would cover 100% of the parity cost increases at the two-year campuses, instead of the traditional allocation of 75% to the state and 25% to the student. This would allow the two-year campuses to cap tuition rates in 09-11 and, if done consistently over a period of years would ensure two-year campus tuition rates remain affordable for those students least able to afford a college education. Funding would also cover a portion of the student

share of parity costs at the four-year campuses, thereby permitting the four-year campuses to keep tuition rate increases to no more than 4% per year in 2009-11. If done over an extended period of time, this step will help to begin to re-balance the state/student shares consistent with the Long-Term Finance Plan.

The ability to cap tuition rate increases, as outlined above, is contingent upon the following budget assumptions: 1.) parity costs are fully funded; 2.) campuses do not experience significant enrollment declines; and 3.) other budget components requested are funded (e.g. Northern Tier Network, bandwidth, etc.) so cost increases need not be absorbed within the current resource base.

Priority 21: Bismarck Higher Education Center. To enhance collaboration and efficient use of existing resources in meeting the program needs of the Bismarck/Mandan area. Funding to cover the operating costs (e.g. plant and support) associated with hosting other NDUS campuses. This would permit students to attend classes at the higher education center for the same cost as attending classes at the providing institutions.

One-Time Funding

Priority 1: \$50 million in funding to address a portion of facility and infrastructure deferred maintenance currently valued in excess of \$100 million and \$4 million to upgrade classroom and research laboratories.

Priority 2: IVN CODEC Replacement: The videoconferencing technology in IVN classrooms was last upgraded in 2005; and historically, the replacement cycle for IVN classrooms has been approximately every five years. So by 2010, the current IVN technologies will have completed their life cycle and a technology refresh will be in store. The most likely replacement technology will be High Definition videoconferencing. Currently, there are five HD test-systems in operation within the NDUS - two systems at MiSU-B and one each at LRSC, MiSU, and NDSU. It is predicted that HD systems will become the norm for classroom videoconferencing because of the superior image quality that can be delivered, versus the current standard definition technology. Of IVN's 31 classrooms, two were updated with HD technologies (the other three are campus-owned rooms) and the remaining 29 rooms will need to be updated at a cost of just more than \$12,000 per room, or \$350,000 for the total project.

Priority 3: State Matching Endowment Pool. An endowment fund will be established by matching one-time public funds with private donations to generate income that will make possible strategic investments to enhance student affordability, access and retention as well as workforce training and research. This will improve educational quality and create economic growth. An endowment pool, to be matched by the college or university based on the following ratio: 2 state to 1 college at two-year campuses and MaSU, DSU, VCSU and MiSU and 1 state to 2 college at UND and NDSU. Funding would be used for scholarships, endowed chairs, equipment, new program start-up, and other special

projects and would be distributed as follows: \$9 million to two-year campuses; \$14 million to DSU, MaSU, DSU, and MiSU; and \$27 million to UND and NDSU.

Priority 4: Bismarck Higher Education Center. To enhance collaboration and efficient use of existing resources in meeting the program needs of the Bismarck/Mandan area. For the purchase of the Horizon Building on the BSC campus which would be used to house programs and services cooperatively delivered by NDUS institutions.

Priority 5: CIS Collaboration and Emergency Pool: Funding to be allocated by the NDUS CIO in support of technology and tools that fosters more effective and efficient delivery of central IT services and to address unforeseen needs not anticipated in the budget process.

Priority 6: Emergency Preparedness/Security: Funding to assist with updating facilities with safety upgrades, including: keyless card entry, fire alarms, public announcement systems, cameras, building alarms, improved lighting, phone system upgrades to include a phone in each room, emergency power upgrades, etc.

Priority 7: Funding to pay off outstanding special assessments at BSC (\$349,230), UND (\$299,960), NDSCS (\$193,130), NDSU (\$340,865), MaSU (\$481,825), MiSU (\$464,280), VCSU (\$32,945) resulting in \$605,000 savings in interest costs.

UND School of Medicine and Health Sciences (SOMHS)

Base Funding

Priority 1: Centers for Family Medicine (CFM)-Bismarck and Minot (\$1,275,000): Provide sufficient funding to stabilize the funding for the operations of the centers by: 1.) eliminating outstanding debt; 2.) providing sufficient funding to cover ongoing costs of providing indigent patient care; and, 3.) discontinuing the \$1.0 million cash infusion from other instructional areas of the SOMHS. (NOTE: This amount would need to be increased by \$500,000 if the debt for the Minot Family Practice Center is not paid off, as requested under one-time funding priorities.)

Priority 2: Electronic Medical Record (\$225,000 combination of base and one-time funding, yet to be determined): Install a new electronic medical record system to link the CFM clinics and hospitals for training purposes. The accrediting body for family medicine graduate medical education residency review recommends: *“programs not currently using an electronic medical record system should document their plans for conversion to one in the near future.”*

Priority 3: Master’s in public health degree program (\$1,133,600): New program to be offered to the medical, allied health, and other public health professionals. This degree program would be integrated into the family medicine training program, and is seen as a strategy to attract more and better family medicine and other residents as well as providing training to various other public health professionals across ND and the region. The Department of Health is supportive of developing a program in public health and has secured a Bush Fellowship to study the issue.

Priority 4: RuralMed Program (\$400,000): Implement a new program to encourage six medical students per year into family medicine. This would include information programs through the rural community high schools, financial support for selected students such that the entire cost of their education would be deferred if they practice in a designated rural area for five years.

Priority 5: Comprehensive health care delivery plan (\$707,850): Staffing, and related costs, to develop and implement a comprehensive workforce needs assessment with associated workforce pipeline activity, in the context of a health care delivery plan.

Priority 6: Enhanced Prevention Training and Focus on Geriatrics (\$1,074,450): One additional faculty member would be added to develop an expanded prevention curriculum and provide the education to all SOMHS trainees—medical students, allied health students, and residents. Training students in better methods of prevention is imperative and will result in a healthier ND population and reduce health care costs. Provides for two additional faculty positions in geriatrics, to expand training opportunities given the aging population demographic in ND.

One-Time Funding

Priority 1: Retire Minot Center for Family Medicine Bond Debt. The SOMHS is making annual lease payments to the UND Foundation, who issued revenue bonds for the construction of the facility in 2003. Retiring the debt would free up \$500,000 per biennium which could be used to help support stabilizing the financial operations of the CFM, as outlined in priority #1 above.

NDSU Agricultural Extension and Research, Northern Crops Institute and Upper Great Plains Transportation Institute

Base Funding

Priority 1: Provide base funding increase to support SBARE-identified priorities, including the greenhouse utility costs. See attached listing.

One-Time Funding

Priority 1: Funding to address 50% of the outstanding deferred maintenance backlog of \$4.4 million.

Priority 2: IVN Equipment Replacement at Extension Sites (\$132,000): Of the current 32 videoconferencing sites, equipment at 21 of those sites will no longer be supported after September 2010, due to the shift from analog to digital technology. The cost would be shared 50% by the state and 50% by the local site.

NDSU Forest Service

Base Funding

Priority 1: Replace lost federal funds (\$826,284): Replace projected lost federal formula funding in the State and Private Forestry provided by the USDA Forest Service. The loss of this funding jeopardizes the support of 7.6 FTE who provide technical, financial and educational services that benefit communities, fire districts, and private forest landowners.

Priority 2: Provide a 10% base funding increase for priorities to be identified by the Forest Service.

Other

Kansas State University (KSU) Veterinary Medicine Slots (\$990,970): Through the student loan trust fund, this would continue to support students currently enrolled in the program and continue to support five new slots per year. This program was funded from the student loan trust fund in the 07-09 biennium.

Connect ND (CND) Campus Solutions Positions (\$1,030,000): Historically, BND-Student Loans of ND has funded six developer and business analyst positions in support of the CND Campus Solution or student system. Due to changes in the student loan industry, BND must identify ways to reduce their operating costs. They have indicated their commitment to continue funding these positions through the end of the 07-09 biennium, but have also indicated they will not be able to continue funding these positions in the 09-11 biennium. Therefore, this budget proposal recommends funding for these positions in the 09-11 biennium come from the student loan trust fund. The continuation of these positions is critical to the ongoing maintenance and development of the CND system.

Workforce Training Funding (\$5,000,000): Continue base funding of \$3.0 million in the Career and Technical Education budget in support of the workforce training quadrants at BSC, LRSC, WSC, and NDSCS. Also, support continuation of \$2.0 million workforce enhancement funding in the Department of Commerce budget, to create or enhance training programs that address workforce needs of private sector companies.

Centers of Excellence Funding (\$20,000,000): Continuation of current level of Centers of Excellence funding. A recent Dept of Commerce report indicates the following project successes:

- \$23 million in state funding has been leveraged with \$100 million in private sector support for a total investment of \$123 million.
- A total of 102 private sector companies are participating in the COE program.
- 16 new or expanded businesses
- 12 new companies have been created
- 4 companies have expanded
- Total direct, supported and projected job creation is 3,500
- 2,500 new direct jobs are projected
- 500 new direct jobs have already been created, with an annual payroll of \$21 million (average salary: \$42,000)
- The Centers currently support another 500 new jobs through partnerships

JOINT POWERS AGREEMENT
State Board of Higher Education and
Bismarck Parks and Recreation District

THIS JOINT POWERS AGREEMENT is made this 15 day of April 2008, between the North Dakota State Board of Higher Education ("Board") and the Board of Park Commissioners of the City of Bismarck ("Park District").

PRELIMINARY STATEMENT

The Board is created by Article VIII, Section 6, North Dakota Constitution, as the governing board of North Dakota public colleges and universities, including Bismarck State College ("BSC"). Park District is a Parks and Recreation District organized under North Dakota Century Code Chapter 40-49. The parties have authority to enter into a Joint Powers Agreement under North Dakota Century Code 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 the Agreement is to provide for the construction of a community aquatic and wellness facility and related improvements adjacent to the existing Bismarck Community Bowl, and for management and operation of the facility by Park District according to terms of the Agreement.

THEREFORE, according to 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 agree as follows:

1. Purpose. The purpose of this Agreement is to provide for the dedication for shared use and lease of land, design, planning, improvement, development, funding, maintenance, use, management and operation of a community aquatic and wellness facility located on the BSC campus.
2. Effective Date. This Agreement shall become effective on the date signed by the last party to sign the Agreement, following required approval by the Attorney General and approval and execution by all parties.
3. Facility. Facilities subject to and governed by this Agreement ("Facility") consist of a community aquatic and wellness center and parking lots and related improvements,

as shown and described in more detail on attached Exhibit A, which is incorporated by reference in this Agreement.

4. Administration, Management and Operation. Administration, management and operation of Facility shall be under direction of Park District. Park District shall honor and carry out any existing leases, rental agreements or other contracts.
5. Park District Powers. Consistent with and subject to terms of this Agreement and applicable laws, Park District shall have the following powers and duties:
 - a. To coordinate planning and development of Facility;
 - b. To enter into a lease or other agreement or agreements with another entity or entities, including a private entity, to provide for financing and construction of improvements;
 - c. To solicit bids and award contracts for design or construction of improvements and repairs, subject to availability of funds, and further provided that improvements must be consistent with the BSC facilities master plan and design of all improvements is subject to approval of the BSC president, which approval may not be unreasonably withheld;
 - d. To operate, schedule and manage Facility, and enter into reasonable lease or rental agreements and other contracts required for operation, scheduling and management;
 - e. To operate concessions or enter into concessions contracts with other parties;
 - f. To solicit and receive contributions and pledges;
 - g. To expend available funds, including Park District funds and funds received from the parties to this Agreement, donations and other sources for improvements, repairs, maintenance and other purposes consistent with this Agreement;
 - h. To establish admission fees, membership fees, rental rates, parking charges and other fees, and adopt rules and guidelines governing usage, seating and distribution of revenue;
 - i. To schedule regular meetings with the Facility Advisory committee and, through the Advisory Committee or other means, regularly consult with and keep informed the parties to this Agreement and other interested groups; and

- j. To perform other acts consistent with this Agreement necessary to implement the intent of the parties
6. Improvements; Financing of Improvements. The Park District intends to arrange for the financing, construction and operation of a community aquatic and wellness center and related improvements. The parties agree that initial financing of the new facilities, or some of the financing, may be provided by a private entity or entities. The Park District has full authority, subject to terms of this Agreement and under North Dakota Century Code chapter 48-02.1 or other applicable law, to enter into necessary agreements, including a lease agreement or agreements, to arrange for such financing and construction, and the parties agree to cooperate as required to facilitate that financing and construction. In addition, it is anticipated that Park District will solicit gifts and donations and investigate and follow up on opportunities for grants and other funding. Although not required to do so, the parties to this Agreement may contribute available public funds to Facility.
7. Title to Improvements. Upon termination of this Agreement, all real property and fixtures located on land owned by the Board shall remain the property of Board. Temporary structures and removable property shall be removed by the owners or disposed of as directed by Park District.
8. Name and Naming Rights. Subject to naming rights as provided in this paragraph 8, the aquatic and wellness center constructed according to terms of this Agreement shall be named the "BSC Community Aquatic and Wellness Center." However, subject to agreement of the two parties, the Park District and Board are authorized to rename the facility, or a part or parts of the facility, in exchange for a donation or donations or a "naming rights" agreement or agreements.
9. General Use. Facility shall be operated as a public facility and shall be made available to other public and private entities and individuals. It shall be utilized for college and school educational and athletic activities and events, and sporting, recreational and civic events that promote wellness and fitness, provide recreational and sporting opportunities to students and other community and surrounding area residents and visitors, promote visitor

attraction and economic development, or enhance the quality of life of community and surrounding area residents.

10. Use of BSC Community Aquatic and Wellness Center by BSC Students and Employees. BSC, after consultation with the BSC Student Board of Governors, has approved a student fee for the use of the BSC Community Aquatic and Wellness Center. The Park District and BSC shall enter into an operating agreement that will provide for periodic payment by BSC to Park District of revenues generated by a student fee approved for this purpose, in exchange for membership for BSC students. Rates and other fees for BSC students and employees shall be negotiated with consideration given to the payments made by BSC, value of land contributed by BSC and advantages of guaranteed revenues tied to student population. If the student fee to support the Aquatic and Wellness Center is discontinued at BSC, Park District and BSC may negotiate an agreement providing for special membership rates and other fees for BSC students and employees, with consideration given to the value of land contributed by BSC.

11. Scheduling Preferences for BSC Community Aquatic and Wellness Center. Scheduling preferences are as follows:
 - a. BSC shall have the right to make reasonable use of the facility without charge, for physical education classes, enrichment classes, intramural events, special events programming and other activities of interest to BSC.
 - b. The Park District shall have the right to reserve a reasonable number of dates for special events.

Park District may revise Scheduling Preferences following notice to and a recommendation from the Facility Advisory committee. Other Scheduling Preferences shall be negotiated.

12. Advisory Committee. There is established a 5 member Facility Advisory Committee to advise Park District and provide an opportunity for input from the parties and other interested groups and individuals regarding Facility management and operation. The Facility Advisory Committee shall meet not less than twice each calendar year. The members of the Facility Advisory Committee are:

- a. The BSC President or President's designee;
- b. The President or designee of the BSC Student Governing body.
- c. One member collectively chosen from the membership of the BSC Faculty and Staff Senates.
- d. One member of the Park District's governing board who shall serve as chair of the committee; and
- e. One member appointed by the Park District's governing Board to represent community facility users.

Park District shall provide staff support and supplies and coordinate and schedule Facility Advisory Committee meetings.

- 13. Term. This Agreement shall remain in force for a period of 99 years, unless earlier amended or terminated by agreement of the parties.
- 14. Liability and Insurance. Each party is responsible for its own acts and agrees to assume its own liability for those acts and consequences. The liability of Board and BSC is governed by North Dakota Century Code chapter 32-12.2 and liability of Park District is governed by North Dakota Century Code chapter 32-12.1. Park District shall procure and maintain liability insurance covering Facility and Park District's management and operation of Facility and adopt and enforce reasonable rules regarding liability insurance for users. Park District shall cooperate with BSC and ensure that Park District or BSC obtains property and casualty coverage as provided by state law for Facility property.

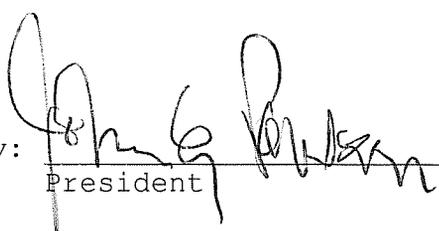
Dated this 3 day of April, 2008

NORTH DAKOTA STATE BOARD OF
HIGHER EDUCATION:

Attest:

By: 

Secretary

By: 

President

Dated this 15 day of April, 2008

BISMARCK PARKS AND RECREATION
DISTRICT:

Attest: [Signature]
By: [Signature]
Director

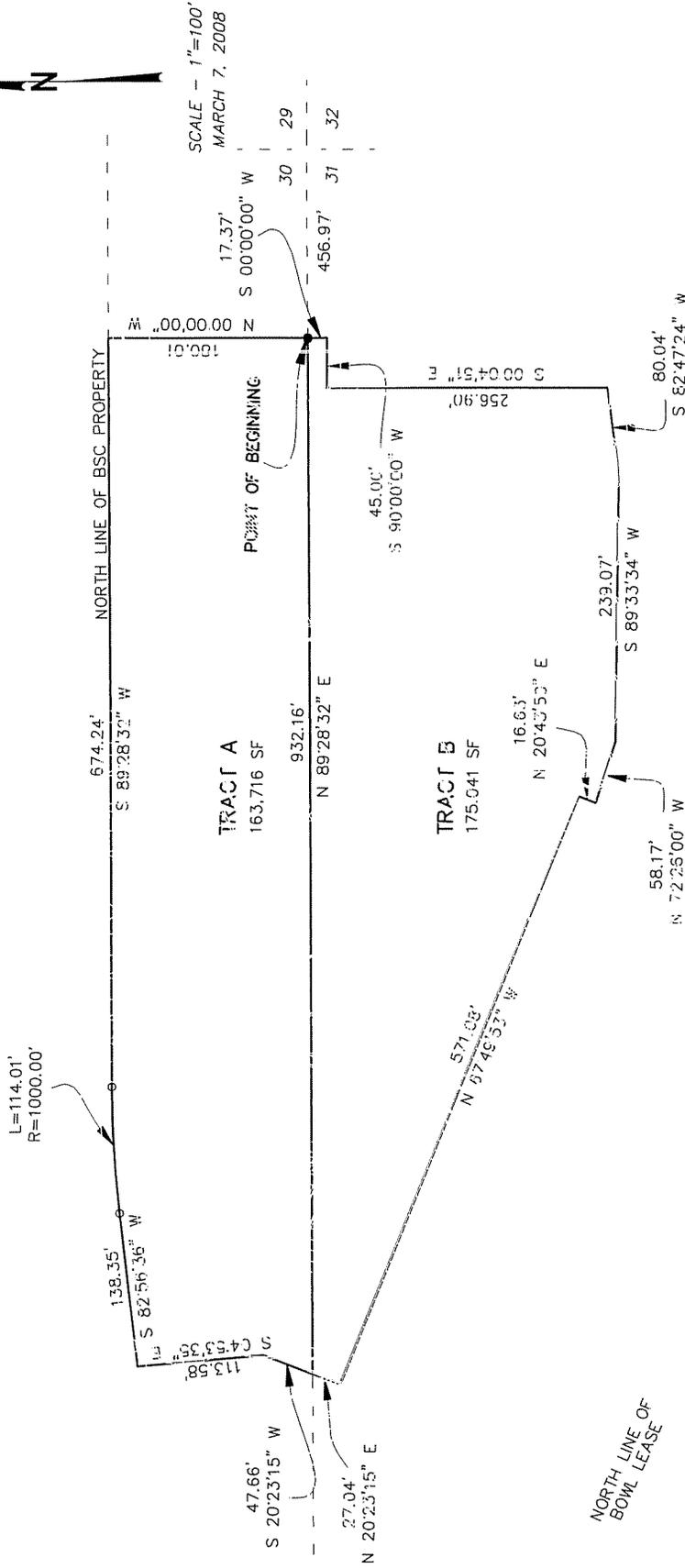
By: [Signature]
President

Approved as to form:

By: [Signature]
North Dakota ~~(Assistant)~~ Chief Deputy
Attorney General

EXHIBIT A

BISMARCK PARKS & RECREATION AQUATICS CENTER LEASE



TRACT A

ALL THAT PART OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF SECTION 30, THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 180.01 FEET TO THE NORTH LINE OF BSC PROPERTY AND THE CENTERLINE OF PROPOSED CANARY DRIVE IN SECTION 30; THENCE SOUTH 89 DEGREES 28 MINUTES 32 SECONDS WEST ALONG SAID NORTH LINE AND CENTERLINE A DISTANCE OF 674.24 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT ON A 1000 FOOT RADIUS CURVE CONTINUING ALONG THE CENTERLINE OF PROPOSED CANARY DRIVE, AN ARC LENGTH OF 114.01 FEET; THENCE SOUTH 82 DEGREES 56 MINUTES 36 SECONDS WEST ALONG SAID CENTERLINE A DISTANCE OF 138.35 FEET; THENCE SOUTH 82 DEGREES 56 MINUTES 36 SECONDS WEST A DISTANCE OF 47.66 FEET TO A POINT ON THE SOUTH LINE OF SECTION 30; THENCE NORTH 89 DEGREES 28 MINUTES 32 SECONDS EAST ALONG THE SOUTH LINE OF SECTION 30 A DISTANCE OF 932.16 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 3.76 ACRES, MORE OR LESS.

TRACT B

ALL THAT PART OF THE EAST HALF OF THE NORTHEAST 1/4 AND GOVERNMENT LOT 1 OF SECTION 31, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF SECTION 31, SAID POINT LYING 458.97 FEET WEST OF THE NORTHEAST CORNER OF SECTION 31; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 17.37 FEET; THENCE SOUTH 00 DEGREES 00 SECONDS WEST A DISTANCE OF 256.90 FEET; THENCE SOUTH 82 DEGREES 47 MINUTES 04 SECONDS WEST A DISTANCE OF 80.04 FEET; THENCE SOUTH 89 DEGREES 33 MINUTES 34 SECONDS WEST A DISTANCE OF 239.07 FEET; THENCE NORTH 72 DEGREES 26 MINUTES 00 SECONDS WEST A DISTANCE OF 58.17 FEET; THENCE NORTH 20 DEGREES 43 MINUTES 50 SECONDS EAST A DISTANCE OF 16.63 FEET; THENCE NORTH 67 DEGREES 49 MINUTES 43 SECONDS WEST A DISTANCE OF 27.04 FEET TO A POINT ON THE NORTH LINE OF SECTION 31; THENCE NORTH 20 DEGREES 43 MINUTES 50 SECONDS EAST ALONG THE NORTH LINE OF SECTION 31 A DISTANCE OF 832.16 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 4.02 ACRES, MORE OR LESS.

DRAWN BY: LCOE

