

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

**AGENDA ITEM: 6 – Q
DATE: December 4-6, 2018**

SUBJECT

BOR Policy 6:2 – Acquisition and Disposal of Real Property Revisions (First Reading)

CONTROLLING STATUTE, RULE, OR POLICY

[SDCL 13-52-1](#) – Acceptance and Administration of Gifts by Regents

[SDCL 13-52-2](#) – Certification by Attorney General of Freedom from Obligations on State

[SDCL 13-52-3](#) – Acceptance of Federal Gifts – Governor’s Approval Required

BACKGROUND / DISCUSSION

In an attempt to transition the BOR policies into the new format, BOR Policy 6:2 has been updated to include the purpose of the policy, definitions, and put in the new format. The policy revisions were reviewed by the Business Affairs Council and the Council of Presidents and Superintendents in October 2018.

IMPACT AND RECOMMENDATIONS

This policy has been corrected to align with SDCL 13-52-1, 13-52-2, and 13-52-3.

ATTACHMENTS

Attachment I – BOR Policy 6:2 – Acquisition and Disposal of Real Property

DRAFT MOTION 20181204_6-Q:

I move to approve the first reading of BOR Policy 6:2 – Acquisition of Real Property as shown in Attachment I.

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Acquisition and Disposal of Real Property

NUMBER: 6:2

A. PURPOSE

To document the planning and acquisition steps involved with acquiring real property.

B. DEFINITIONS

1. Real Property: Land all structures, improvements or fixtures affixed to the land.

C. POLICY

1. Land Acquisition Plans

Where long range plans developed under BOR Policy 6:1 require expansion of the campus, planning documents shall include land acquisition plans. Land acquisition plans shall include the following elements:

- ~~A.~~—A discussion of the need for the acquisition of additional real property in order to achieve the objective set forth in the long range plan;
- ~~B.~~—Identification of property to be acquired and an explanation of the basis for selecting that property to achieve the objectives set forth in the long range plan;
- ~~C.~~—Proposed funding sources; and
- ~~D.~~—Alternative acquisition plans to take effect in the event that the primary plan cannot be implemented, for financial reasons, because certain tracts fail to pass the environmental audit, or for any other reason.
 - 1.—Alternative plans should address the disposition that shall be made of tracts that have been acquired in the event that it becomes impossible to acquire all the tracts sought.

2. Land Acquisition and Conveyance

The Board's powers to acquire and convey interests in real property vary depending upon the circumstances in which the transactions arise. No proposal may be brought to the Board for its consideration until the General Counsel has certified that the proposed transaction conforms to the legal limitations on the Board's authority.

3. Supporting Documentation for Land Acquisition

All proposals brought to the Board for its consideration must be accompanied by the following background documentation:

- ~~A.~~—The certificate of the General Counsel that the proposed structure for the transaction conforms to the legal limitations on the Board’s authority;
- ~~B.~~—A statement of the business rationale for the acquisition referencing the land acquisition plan set forth in BOR Policy 6:2(1) and identifying any additional actions or expenditures that shall be needed to make use of the property;
- ~~C.~~—A report from an independent appraiser stating a fair market price for the property;
- ~~D.~~—An environmental audit report, including any action plan required to abate identified environmental hazards; and
- ~~E.~~—A financial plan and acquisition budget addressing (a) the land price, (b) incidental expenses and (c) costs for related improvements or services needed to make the property serviceable.

These materials may be presented to the Board in executive session pending completion of negotiations for an acquisition, but shall become public records once the acquisition is complete.

4. Supporting Documentation for Conveyance of Interests in Real Property

All proposals brought to the Board for its consideration must be accompanied by the following background documentation:-

- ~~A.~~—The certificate of the General Counsel that the proposed structure for the transaction conforms to the legal limitations on the Board’s authority.
- ~~B.~~—A statement of the business rationale for the transaction, including a discussion of the effects of the conveyance on current operations and on plans made pursuant to BOR Policies 6:1 and 6:2(1);
- ~~C.~~—A report from an independent appraiser stating the fair market value of the interest to be conveyed;
- ~~D.~~—For transactions conveying title or control of Board property, except conveyance or highway purposes, an environmental audit report, including any action plan required to remove Board liability for identified environmental hazards; and
- ~~E.~~—A financial plan identifying costs associated with the transaction, funding sources and disposition of the proceeds.

These materials may be presented to the Board in executive session pending completion of negotiations for a conveyance, but shall become public records once the acquisition is complete.

5. Gifts of Real Property

In addition to the documentation required under BOR Policy ~~number~~ 6:2(3) and 6:2(4), before a gift of real property may be accepted, the following ~~the~~ external review procedures must be completed:

- ~~A. Any real property given to the state shall require the Bureau of Finance and Management to prepare a fiscal note showing the cost to state government.~~
- ~~B. Any gift of real property in which the cost to state government exceeds one thousand dollars in any one year requires legislative approval.~~
- ~~C. Gifts of real property may not be accepted until the attorney general certifies that they are free from obligations.~~
- Gifts of real property cannot be accepted, received or administered without approval of the Legislature.
 - The Board of Regents may accept gifts of real property from the federal government provided that the acceptance of such gift is approved by the Governor.

FORMS / APPENDICES:

None

SOURCE:

SDCL 13-52-1, 13-52-2, 13-52-3; BOR, September 1991; BOR, June 1992; _____.