

**SOUTH DAKOTA BOARD OF REGENTS**

**Planning, Governance and Resource Development**

**AGENDA ITEM: 4 – H**  
**DATE: October 2-4, 2018**

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**SUBJECT**

**2019 Proposed Legislation**

**CONTROLLING STATUTE, RULE, OR POLICY**

**[BOR Policy 6:10 - Legislative Authorization of Private or Grant Funded Facilities](#)**  
**[13-51-1 - Legislative approval for facilities.](#)**

**BACKGROUND / DISCUSSION**

Each year institutions are asked to identify any capital projects or legislative requests that potentially could go before the Legislature. Each request must include descriptions and explanations and fund sources for any capital projects. Per Board policy, institutions must have the funds in-hand or guaranteed and available immediately from its respective foundation before the request can go before the Legislature.

Northern State University

NSU will be submitting a Facility Program Plan for a Regional Sports Complex to the Board of Regents during the December 2018 meeting. If the Board approves the plan, the facility would need the approval of the legislature. The Regional Sport Complex would include an on-campus football stadium, softball field, fan amenities and parking. Co-Op Architects and DLR Group were selected as the architects for this project and the team of McCownGordon, Quest Construction and Kansas Turf have been selected as the construction managers. Funding for this facility would be provided through the Educational Impact Campaign. This \$45M capital campaign was officially launched in November 2017 and will provide the funding for three projects – the NSU Athletic and Recreational Fields, the new School for the Blind and Visually Impaired and the NSU Regional Sports Complex.

A funding letter guaranteeing that the funds will be available upon the passage of the legislation has been requested from the NSU Foundation. Per Board policy, this letter will need to be available before the legislation can move forward.

South Dakota State University

*Vet 2 + 2 Program*

The Vet 2 + 2 program will provide veterinary medicine students the first two years of instruction for veterinary medicine at SDSU. The student would finish their degree through a partnership with the University of Minnesota. Legislation is necessary to redirect funds

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**INFORMATIONAL ITEM**

from a partnership with Iowa State University veterinary school slots to the SDSU program and to support scholarships and grants for tuition differentials for students when they attend the University of Minnesota. Legislative ongoing reallocation of this funding from the endo-ecto parasiticide tax along with correlated escalators for tuition increases is required. Facilities to support this academic program will require updates in the amount of approximately \$2M as reallocated from maintenance and repair funding.

SDSU has identified a total need of \$825,000 of one-time money to complete the transition of this program over a three-year period at \$275,000 per year. The funding will cover the program director and startup costs for the years prior to SDSU's full cohort of enrolling students. These funds were not included in the Board's FY20 budget request. SDSU will either need to find this funding internally, or legislators would need to bring forward legislation to provide the funding.

#### *Scobey Demolition*

SDSU's second request is to allow for the demolition of Scobey Hall which is located on the west side of campus and immediately west of the SDSU president's residence. This facility is not currently occupied by SDSU and the facility has significant backlogged M&R projects as well as continued utility, operations, and maintenance costs. The preliminary estimate for demolition, including asbestos abatement, utility termination, and related activities is \$593,000. Once cleaned up, the site is planned to be reused in accordance with SDSU's mission and approved campus master plan. SDSU will need to identify local funds or private funds for the demolition.

#### *Land Transactions*

SDSU's third request is to allow for the following land transactions to realign real property holdings to effectively support mission-driven activities. SDSU needs to obtain legislative approval to move two (2) parcels of land (Box Elder, Highmore) that are no longer being efficiently used out of the Section 7 trust, authorize their sale, and to designate other real property to be determined and held for the use of SDSU into the trust to ensure the trust is kept whole. SDSU also needs legislative approval to sell its Volga Grassland parcel located northwest of campus with the proceeds of these parcels to be used to purchase Bothe, other previously approved land parcels, and suitable agricultural property.

#### Board Office

When the South Dakota Building Authority refinances BOR bonds, funded with HEFF or local funds, the savings is taken and deposited into the general fund. The original lease payment amounts are not changed. Per Todd Meierhenry, attorney for SDBA, South Dakota Building Authority only has the authority to pass the savings back to the general fund of the State pursuant to SDCL §5-12-23. The statute ties the Building Authority's hand and they can only assign and deposit it to the general fund.

SDCL 5-12-23 would need to be changed in order to capture the savings and return them to the Higher Education Facilities Fund or to the campus that is responsible for the debt service. The proposed change would need to be written so it would encompass only Board

of Regents refinancings and not those of other boards, state or quasi-state agencies. Bond issuance costs for a refinancing would be covered out of any savings. The current statute language is provided below with the section highlighted that would need to be changed.

SDCL 5-12-23. Revenues and income from which bonds payable--Use of educational facilities fund--Disposition of revenues. Such bonds shall be payable solely and only from:

(1) Revenues to be derived by the building authority from the operation of any such facilities acquired, constructed, completed, remodeled or equipped in whole or in part with the proceeds of the bonds;

(2) Income to be derived from rental leases to state departments, boards, commissions or other agencies, or from leases to others as provided in §§ 5-12-13 to 5-12-18, inclusive;

(3) In the case of leases involving institutions under the control of the board of regents, such funds in the educational facilities fund established by chapter 13-51, as are not otherwise appropriated, earmarked, or pledged;

(4) Revenues to be derived by the authority from any department, agency or instrumentality of the United States for any purpose consistent with the provisions of this chapter; and

(5) Revenues to be derived by the authority in connection with projects of the kind listed in this chapter from (a) the foreclosure of any mortgages, deeds of trust, notes, debentures, bonds, and other security interests held by it, or pledged and assigned by it in connection with bonds issued for such a project, either by action or by exercise of a power of sale, (b) the sale of the equity of redemption in said security interests in accordance with the terms of said instruments and applicable state law or (c) other actions to enforce any obligation held by it.

However, for any year in which the Legislature has appropriated funds for the payment of lease rentals with respect to a project of the kind described in this chapter, any revenues received by the authority, other than from the appropriation, as a result of such program shall be assigned to and deposited in the general fund. **(emphasis added)**

The Commissioner of the Bureau of Finance and Management has been notified that the Board might pursue this change, and she noted that BFM had not changed its opinion on the matter (interpreted to mean refund proceeds should go to the general fund) and she thought the issue needed to wait until the next administration weighed in on the matter.

## IMPACT AND RECOMMENDATIONS

The board approves the final legislative bills at the December Board meeting.

## ATTACHMENTS

None