North Dakota Board of Higher Education
Meeting Notice and Agenda
September 3, 2014

The State Board of Higher Education will meet on Wednesday September 3, 2014, at 2:00 p.m. CST, via conference call originating from the Capitol, 600 E. Boulevard Avenue, 10th Floor, NDUS Conference Room.

Call to Order

1. Approval of Agenda*
   *per N.D.C.C. section 44-04-20(6), topics which may be considered at a special meeting are limited to those set forth in the notice of the special meeting.


3. Review and Approve FY15 Presidential Salaries.

4. Review and Approve Chief Auditor Appointment Letter.

5. Reschedule September 25th Board Meeting to October 2.

### Chart A: 63rd Legislative Action

<table>
<thead>
<tr>
<th>Rank</th>
<th>Campus Priority</th>
<th>Campus</th>
<th>Project Title</th>
<th>Type of Project</th>
<th>SBHE Request</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N/A</td>
<td>1</td>
<td>UND</td>
<td>Medical School</td>
<td>Completion of Medical School</td>
<td>$62,000,000</td>
</tr>
</tbody>
</table>

### Chart B: Valley City Flood Mitigation

| Rank | Campus Priority | Campus | Project Title                          | Type of Project                     | SBHE Request |
|------|-----------------|--------|----------------------------------------|                                     |              |
|      |                 |        |                                        |                                     |              |
| N/A | 2               | VCSU   | Fine Arts Bldg, including demolition of Foss and McCarthy | New Construction, including demolition | $25,850,000  |

### Chart 1: 2015-17 Major State General Fund Capital Project Priority Recommendations

**Life-Safety Priorities**

Projects listed below address a significant life safety condition, resulting in increased risk of personal injury or other claim. In general, the projects also address a significant deferred maintenance liability. Total deferred maintenance removed in this category: **$15,971,504**

| Rank | Campus Priority | Campus | Project Title                          | Type of Project                     | SBHE Request |
|------|-----------------|--------|----------------------------------------|                                     |              |
|      |                 |        |                                        |                                     |              |
| 1    | 1               | VCSU   | Heating Plant Replacement              | New Construction, including demolition | $14,289,000  |
| 2    | 1               | NDSU   | Dunbar Hall II, including demolition of Dunbar | New Construction, including demolition | $45,900,000  |
| 3    | 3               | DCB    | Nelson Science Center                  | Renovation                           | $1,098,789   |
Chart 2: 2015-17 Major State General Fund Capital Project Priority Recommendations

Deferred Maintenance Priorities

Projects listed below address, in the order of magnitude, the amount of deferred maintenance being completed compared to overall project cost. The projects may also address negative life safety conditions, improve functionality, or correct accreditation concerns which rank lower than the deferred maintenance mitigation. Total deferred maintenance addressed in this category: $16,146,423

<table>
<thead>
<tr>
<th>Rank</th>
<th>Campus Priority</th>
<th>Campus</th>
<th>Project Title</th>
<th>Type of Project</th>
<th>SBHE Request</th>
<th>State - Running Total</th>
<th>Reduction in Deferred Maint.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td>BSC</td>
<td>Major Campus Infrastructure</td>
<td>Replacement</td>
<td>$1,575,000</td>
<td>$1,575,000</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>NDSCS</td>
<td>Campus Water, Sewer Infrastructure</td>
<td>Replacement</td>
<td>$13,298,000</td>
<td>$14,873,000</td>
<td>$13,298,000</td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>LRSC</td>
<td>Switchgear, Electrical Service, Window Replacement</td>
<td>Replacement</td>
<td>$1,648,423</td>
<td>$16,521,423</td>
<td>$1,648,423</td>
</tr>
</tbody>
</table>
Chart 3: 2015-17 Major State General Fund Capital Project Priority Recommendations

Projects listed below address, in the order of magnitude, the relative importance each has to a strategic or corrective program need. Although projects may have scope components which reduce deferred maintenance or consider life safety elements, the primary purpose of the project is to advance the mission of the institution. Note that based on the ranking criteria approved by the master plan consultant, the projects below are all lower in numerical ranking than any of the projects which address either safety or deferred maintenance, above. Projects highlighted may not be a consideration for general fund appropriations, and if so should be transferred to the non-state general fund appropriated category. Total potential deferred maintenance addressed in this category: $9,000,000

<table>
<thead>
<tr>
<th>Rank</th>
<th>Campus Priority</th>
<th>Campus</th>
<th>Project Title</th>
<th>Type of Project</th>
<th>SBHE Request</th>
<th>State - Running Total</th>
<th>Reduction in Deferred Maint.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>NDSU</td>
<td>Accreditation Projects (Sudro Hall Addition)</td>
<td>Addition/Renovation</td>
<td>$32,700,000</td>
<td>$32,700,000</td>
<td>$4,000,000</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>UND</td>
<td>Strategic Renovation/Renewal</td>
<td>Renovation/replacement</td>
<td>$10,000,000</td>
<td>$42,700,000</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>WSC</td>
<td>Allied Health Facility</td>
<td>New Construction</td>
<td>$14,000,000</td>
<td>$56,700,000</td>
<td>N/A</td>
</tr>
<tr>
<td>4</td>
<td>2</td>
<td>NDSCS</td>
<td>Fargo Expansion Phase 1</td>
<td>New Construction</td>
<td>$10,000,000</td>
<td>$66,700,000</td>
<td>N/A</td>
</tr>
<tr>
<td>5</td>
<td>1</td>
<td>MiSU</td>
<td>Career and Technical Education (CTE)</td>
<td>New Construction</td>
<td>$8,000,000</td>
<td>$74,700,000</td>
<td>NA</td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>NDSU</td>
<td>Accreditation Projects (Engineering) – Phase 1</td>
<td>Renovation</td>
<td>$27,200,000</td>
<td>$101,900,000</td>
<td></td>
</tr>
</tbody>
</table>
Chart 4: 2015-17 Major State General Fund Capital Project Priority Recommendations for NDSU Related Entities

As per NDCC, the projects listed below are to be included in the 2015-17 general fund budget request without alteration by the SBHE.

<table>
<thead>
<tr>
<th>Affiliate Location</th>
<th>Project Title</th>
<th>Type of Project</th>
<th>SBHE Request</th>
<th>State - Running Total</th>
<th>Reduction in Deferred Maintenance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Station</td>
<td>Veterinary Diagnostic Lab</td>
<td>New construction</td>
<td>$18,000,000</td>
<td>$18,000,000</td>
<td></td>
</tr>
<tr>
<td>Main Station</td>
<td>Meats Lab Facility</td>
<td>New construction</td>
<td>$7,600,000</td>
<td>$25,600,000</td>
<td></td>
</tr>
<tr>
<td>CREC, LREC, NCREC, WREC</td>
<td>Seed Cleaning Facilities</td>
<td>Replacement</td>
<td>$5,250,000</td>
<td>$30,850,000</td>
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</tr>
<tr>
<td>Forest Service</td>
<td>No requests</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Campus</td>
<td>Project Title</td>
<td>Type of Project</td>
<td>SBHE Request</td>
<td>Funding Source</td>
<td>Reduction in Deferred Maintenance</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------------------</td>
<td>--------------------------</td>
<td>--------------</td>
<td>----------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>BSC</td>
<td>Student Union LL Renovation</td>
<td>Renovation</td>
<td>$600,000</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>UND</td>
<td>Student Engagement</td>
<td>Misc. Renovations</td>
<td>$6,000,000</td>
<td>Private</td>
<td></td>
</tr>
<tr>
<td>NDSU</td>
<td>Aquatic Center</td>
<td>Expansion</td>
<td>$11,000,000</td>
<td>Revenue bond/local</td>
<td></td>
</tr>
<tr>
<td>NDSU</td>
<td>Memorial Union Dining Center Expansion &amp; Accessibility</td>
<td>Addition/renovation</td>
<td>$1,000,000</td>
<td>Local</td>
<td></td>
</tr>
<tr>
<td>NDSU</td>
<td>Residence Dining Center Kitchen Remodel &amp; Roof Replacement</td>
<td>Renovation/Repair</td>
<td>$2,000,000</td>
<td>Local</td>
<td>$300,000</td>
</tr>
<tr>
<td>NDSU</td>
<td>Low Rise Lavatories-Phases IV and V</td>
<td>Remodel</td>
<td>$2,327,775</td>
<td>Local</td>
<td>$1,582,500</td>
</tr>
<tr>
<td>NDSU</td>
<td>Minard Hall Mediation Settlement – Increased Authorization</td>
<td>Increased authorization for settlement agreement</td>
<td>$600,000</td>
<td>Insurance proceeds, legal settlements, possible deficiency appropriations and other available funds</td>
<td>N/A</td>
</tr>
<tr>
<td>NDSCS</td>
<td>Robertson Hall Restroom Renovation</td>
<td>Renovation</td>
<td>$1,500,000</td>
<td>Private/local</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Campus</td>
<td>Project Title</td>
<td>Type of Project</td>
<td>SBHE Request</td>
<td>Reduction in Deferred Maint.</td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>---------------------------------------------------</td>
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<td>-----------------------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>State</td>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>DSU</td>
<td>May Hall HVAC &amp; Window Replacement</td>
<td>Renovation/ replacement</td>
<td>$ 4,032,960</td>
<td></td>
<td>$ 4,032,960</td>
</tr>
<tr>
<td>DSU</td>
<td>Student Academic Center</td>
<td>New Construction</td>
<td>$ 14,884,665</td>
<td></td>
<td>$ 1,390,353</td>
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<tr>
<td>LRSC</td>
<td>Dakota Precision Ag Center Facility</td>
<td>New construction</td>
<td>$ 12,405,968</td>
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<td>N/A</td>
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<tr>
<td>MaSU</td>
<td>Classroom Building Renovation</td>
<td>Renovation</td>
<td>$ 9,632,060</td>
<td></td>
<td>$ 1,970,000</td>
</tr>
<tr>
<td>MaSU</td>
<td>Old Main Renovation</td>
<td>Renovation</td>
<td>$ 19,267,525</td>
<td></td>
<td>$ 7,836,000</td>
</tr>
<tr>
<td>MiSU</td>
<td>Expand Geo Thermal</td>
<td>Expansion</td>
<td>$ 4,500,000</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Institution</td>
<td>Description</td>
<td>Type</td>
<td>Cost</td>
<td>Savings</td>
<td></td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------------------------------------</td>
<td>-------------------------------</td>
<td>-----------</td>
<td>---------------</td>
<td></td>
</tr>
<tr>
<td>MiSU</td>
<td>Purchase and Renovate Augustana Church</td>
<td>Renovation/Purchase</td>
<td>$2,500,000</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>NDSU</td>
<td>Crop Quality Food Science Facility (Harris Hall replacement)</td>
<td>Replacement, including demolition</td>
<td>$32,000,000</td>
<td>$1,980,000</td>
<td></td>
</tr>
<tr>
<td>UND</td>
<td>Infrastructure Pool</td>
<td>Replacement</td>
<td>$40,000,000</td>
<td>$6,037,000</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>$139,223,178</strong></td>
<td><strong>$23,246,313</strong></td>
<td></td>
</tr>
</tbody>
</table>
Other Capital Funding Needs

Currently, NDUS institutions have four funding methods available for facility maintenance and improvements:

1. **Base funding for operational costs.** This funding is provided through the SCH funding model and is used for such things as utilities, housekeeping, and sundry repairs.

2. **Base funding for Extraordinary Repairs.** The amount of this funding is currently based on an OMB formula which is intended to provide 2% of Facility Replacement Value (FRV) for any building over five years old; however, historically and currently, the NDUS has received less than 15% of the required formula funding. The Paulien & Associates report recommends funding at the national standard of two percent, which has been determined to be the amount necessary to maintain deferred maintenance at a level of twenty to twenty-five percent of the FRV. Furthermore, campuses must fund special assessment payments from their extra-ordinary repairs funding for city improvements to adjacent property, further reducing the amount left for on-campus improvements. Below is a summary of the estimated amount to pay-off special assessment balances after the 13-15 biennium, and the amount need for the 15-17 installment payments, if the balances are not paid off.

### SPECIAL ASSESSMENT BALANCES

<table>
<thead>
<tr>
<th>Campus</th>
<th>Pay-off Balance Estimate</th>
<th>Est. 15-17 payment</th>
<th>Current 11-13 Extraordinary Repairs Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>BSC</td>
<td>$1,357,600</td>
<td>$491,800</td>
<td>$417,673</td>
</tr>
<tr>
<td>LRSC</td>
<td>$155,367</td>
<td></td>
<td>$155,367</td>
</tr>
<tr>
<td>WSC</td>
<td>$285,000</td>
<td>$45,000</td>
<td>$197,801</td>
</tr>
<tr>
<td>UND</td>
<td>$241,585</td>
<td>$66,815</td>
<td>$4,601,566</td>
</tr>
<tr>
<td>NDSU</td>
<td>$1,591,426</td>
<td>$407,089</td>
<td>$2,732,244</td>
</tr>
<tr>
<td>NDSCS</td>
<td>$275,098</td>
<td>$98,794</td>
<td>$1,012,379</td>
</tr>
<tr>
<td>DSU</td>
<td></td>
<td></td>
<td>$409,078</td>
</tr>
<tr>
<td>MaSU</td>
<td>$228,285</td>
<td>$74,876</td>
<td>$358,992</td>
</tr>
<tr>
<td>MISU</td>
<td></td>
<td></td>
<td>$899,620</td>
</tr>
<tr>
<td>VCSU</td>
<td>$243,238</td>
<td>$65,555</td>
<td>$658,319</td>
</tr>
<tr>
<td>DCB</td>
<td>$28,457</td>
<td>$7,755</td>
<td>$114,007</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$4,250,690</td>
<td>$1,259,683</td>
<td>$11,557,046</td>
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</tbody>
</table>
OMB Extra-Ordinary Repairs Formula Funding

<table>
<thead>
<tr>
<th>Current 13-15 Base Funding</th>
<th>$11.2 million</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% of OMB formula (@2% of FRV)</td>
<td>$88 million</td>
</tr>
<tr>
<td>Differential to current 13-15 base funding</td>
<td>$76.8 million</td>
</tr>
<tr>
<td>50% of OMB formula (@2% of FRV)</td>
<td>$44 million</td>
</tr>
<tr>
<td>Differential to current 13-15 base funding</td>
<td><strong>$32.8 million</strong></td>
</tr>
<tr>
<td>35% of OMB formula (@2% of FRV)</td>
<td>$30.8 million</td>
</tr>
<tr>
<td>Differential to current 13-15 base funding</td>
<td>$19.6 Million</td>
</tr>
</tbody>
</table>

History of Deferred Maintenance Pool

3. **Deferred Maintenance one-time funding.** According to the Paulien & Associates report, and based on the findings by VFA Inc., the NDUS has an estimated $800 million in deferred maintenance. Because of the relative age of the NDUS buildings and condition, increasing the Extraordinary Repair base funding to 100% of the OMB formula of $88M/biennium would allow for continued degradation, resulting in a $1,500M backlog by 2020. They suggest increasing the Extraordinary Repair base funding from $11.2M to $266M to maintain the current condition of NDUS at an FCI of 31%.\(^1\) To realize substantial progress on deferred maintenance liabilities, and avoid critical failures of facility systems, institutions must be able to address the backlog with one-time funding investments coupled with realistic base funding.

<table>
<thead>
<tr>
<th></th>
<th>NDUS Request</th>
<th>Legislative Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-15 Biennium</td>
<td>$11 million</td>
<td>$11 million Appropriated to SBHE</td>
</tr>
<tr>
<td>2009-11 Biennium</td>
<td>$50 million</td>
<td>$20 million Appropriated to campuses</td>
</tr>
</tbody>
</table>

\(^1\) See page 46 of the Paulien and Associates NDUS System Wide Master Plan.
History of Major Capital Project Appropriations

4. **Major Capital projects.** Generally, includes new construction or major renovation or major remodeling projects related to buildings and/or infrastructure, whereby deferred maintenance is reduced when the cost of the project is so great it is not feasible or reasonable to achieve through separate extraordinary repair and/or deferred maintenance funding. These projects should remove a significant amount of deferred maintenance while also providing improvements for institution programs.

<table>
<thead>
<tr>
<th>Year</th>
<th>General Fund</th>
<th>Permanent Oil Trust Fund</th>
<th>State Bonds</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-15</td>
<td>$177,174,763</td>
<td></td>
<td></td>
<td>$177,174,763</td>
</tr>
<tr>
<td>2011-13</td>
<td>$47,136,000</td>
<td></td>
<td></td>
<td>$47,136,000</td>
</tr>
<tr>
<td>2009-11</td>
<td>$39,008,248</td>
<td>$10,400,000</td>
<td></td>
<td>$49,408,248</td>
</tr>
<tr>
<td>2007-09</td>
<td>$13,808,235</td>
<td>$4,809,515</td>
<td></td>
<td>$18,617,750</td>
</tr>
<tr>
<td>2005-07</td>
<td>$658,875</td>
<td></td>
<td>$13,168,111</td>
<td>$13,826,986</td>
</tr>
<tr>
<td>2003-05</td>
<td></td>
<td></td>
<td>$8,022,347</td>
<td>$8,022,347</td>
</tr>
<tr>
<td>2001-03</td>
<td>$4,141,000</td>
<td></td>
<td>$9,838,133</td>
<td>$13,979,133</td>
</tr>
</tbody>
</table>

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\[2\] Does not include appropriations for one-time deferred maintenance or base funding for extra-ordinary repairs.
Summary Recommendations for 15-17 Biennium

In order to protect the state’s assets and meet the educational needs of the twenty first students learning needs will require a combination of the following strategies:

A.) Request base funding of $32.8 million to bring all campuses to 50% of the OMB extra-ordinary repairs formula

Cost $32.8 million base funding

B.) Request one-time funding of $1,259,683 for 15-17 special assessment payments.

Cost $1,259,683 one-time funding

C.) Request one-time funding for a system deferred maintenance pool.

Cost $20 million one-time

with the following stipulations:

D.) Completion of a comprehensive deferred maintenance inspection and estimate (included in the $750,000 budget request, below) of all general fund supported facilities similar to that undertaken by VFA Inc. in the Paulien & Associates Master Plan. (See page 122 of the report for a sample of the proposed inspection and estimate information, which can be updated with expenditures to re-calculate the deferred maintenance values.

- No less than 80% of the total project cost must be attributable to the resolution of deferred maintenance.
- Clear demonstration of corresponding reduction in deferred maintenance.
- Projects require prior approval by Chancellor.

E.) Request one-time funding of $750,000 to complete the space utilization, deferred maintenance and space inventory evaluation at all campuses.

Cost $750,000 one-time funding (Already included in SBHE approved operating budget request)

Recommended Motion – SBHE Capital Project Request

Motion to approve and request the following be included within the Governor’s 2015-2017 Budget Request to the 64th Legislative Assembly:

1. Project listed on Chart A: 63rd Legislative Action
2. Project listed on Chart B: Valley City Flood Mitigation
3. All projects listed Chart 1: 2015-17 Major State General Fund Capital Project Priority Recommendations - Life-Safety Priorities
4. All projects listed in Chart 2: 2015-17 Major State General Fund Capital Project Priority Recommendations – Deferred Maintenance Priorities
5. All projects listed in Chart 3: 2015-17 Major State General Fund Capital Project Priority Recommendations – Program/Accreditation Priorities
6. All projects listed in Chart 4: 2015-17 Major State General Fund Capital Project Priority Recommendations – NDSU Related Entities
7. All projects listed in Chart 5: Chart 5: 2015-17 Major Non-State General Fund Capital Project Priorities
8. All funding requests specified in the Summary Recommendations for 15-17 Biennium (above) with the included stipulations and requirements, excluding those items already included in the SBHE approved 15-17 operating budget request.
<table>
<thead>
<tr>
<th>CHART SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CHART</strong></td>
</tr>
<tr>
<td>Chart A: 63rd Legislative Action</td>
</tr>
<tr>
<td>Chart B: Valley City Flood Mitigation</td>
</tr>
<tr>
<td>Chart 1: 2015-17 Major State General Fund Capital Project Priority Recommendations</td>
</tr>
<tr>
<td>Chart 3: 2015-17 Major State General Fund Capital Project Priority Recommendations Program/Accreditation Priorities</td>
</tr>
<tr>
<td>Chart 4: 2015-17 Major State General Fund Capital Project Priority Recommendations for NDSU Related Entities</td>
</tr>
<tr>
<td>Chart 5: 2015-17 Major Non-State General Fund Capital Project Priority</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TOTAL REQUESTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CHART</strong></td>
</tr>
<tr>
<td>Capital Projects*+</td>
</tr>
<tr>
<td>Cover 15-17 Special Assessment payments</td>
</tr>
<tr>
<td>Deferred Maintenance Pool</td>
</tr>
<tr>
<td>50% of OMB Extra-ordinary repairs formula</td>
</tr>
</tbody>
</table>

*Capital projects address $48,881,587 in deferred maintenance.

+Excludes $62,000,000 for UND Medical School and $30,850,000 for NDSU related entities
Project Justification Narrative, BFC recommendation 8/19/2014

Chart A: 63rd Legislative Action

Project Title: UND – SMHS Appropriation Balance
Amount Requested: $62,000,000
Amount Recommended: $62,000,000
Funding Source: State General Funds

The 63rd Legislative Assembly authorized $122,450,000 for the construction of the new Medical School. Construction is underway on the Grand Forks campus. $60,450,000 in state general funds were appropriated during the current 13-15 biennium, with borrowing authorized for the balance of $62,000,000 per Section 23 of SB2003 (2013) as follows:

SECTION 28. UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH SCIENCES FACILITY PROJECT - LOAN AUTHORIZATION. The legislative assembly authorizes the construction of the university of North Dakota school of medicine and health sciences facility project to be funded in two phases as provided under this section. The capital assets line item in subdivision 5 of section 1 of this Act includes the sum of $60,450,000, or so much of the sum as may be necessary, for phase 1 of the project. The university of North Dakota may also seek funding from the capital projects contingency pool in accordance with section 24 of this Act for costs associated with phase 1 of the project. During the biennium beginning July 1, 2013, and ending June 30, 2015, and continuing into the biennium beginning July 1, 2015, and ending June 30, 2017, the state board of higher education may borrow the sum of $62,000,000, or so much of the sum as may be necessary, from the Bank of North Dakota for completion of phase 2 of the school of medicine and health sciences facility project. The state board of higher education shall seek funding from the sixty-fourth legislative assembly to repay the loan authorized under this section.

Chart B: Valley City Flood Mitigation

Project Title: VCSU FINE ARTS BUILDING, including demolition of Foss and McCarthy
Amount Requested: $25,850,000
Amount Recommended: $25,850,000
Funding Source: State General Funds

This request responds to the efforts of the City of Valley City to establish permanent flood protection for the VCSU campus and surrounding area. The proposed building will consolidate all of VCSU’s fine arts programs under one roof, along with communication arts programs, providing updated facilities for the fine arts programs, and professional communication, language, and literature programs. The facility will replace the current Foss Hall, assisting in Valley City’s permanent flood protection efforts, and will allow VCSU to relocate the remaining programs in McCarthy Hall and raze it, thereby removing two older buildings from VCSU’s deferred maintenance list.

Project includes removal of Foss Hall-music building ($2,177,916) and McCarthy Hall ($5,585,744). Valley City is located in the Sheyenne River valley, one of the oldest post-glacial stream beds in the upper plains. The river drains a large area of eastern North Dakota agricultural land as it flows south, then eastward to the Red River of the North. Recently, and due to heavy winter snow followed by a rapid spring melt, the Sheyenne River flooded and significantly damaged Valley City where the river flows through the center of the community, and directly past VCSU.

Mitigation of this type of seasonal flooding is most often accomplished by creating a path of unimproved green space (flood way) adjacent to the river, with permanent flood walls constructed to contain the
peak flows as the river current moves unimpeded through the community. Creating the path requires
the purchase and subsequent demolition of structures currently adjacent to the river. VCSUs Foss Hall is within the planned flood way, and must be removed in order to ensure the proper operation of the permanent flood protection system. Due to economic limitations, Valley City is unable to fund the purchase and removal of the building, and therefore seeks assistance from the State of North Dakota to not only remove the building, but cost share on the permanent flood protection system which will benefit all state agencies (including VCSU) within Valley City.

With consideration for a new facility, VCSU recognized an opportunity to demolish another facility on the VCSU campus having significant deferred maintenance and limited opportunity for improvement (McCarthy Hall), and subsequently expand the project to consolidate art programs under one roof. As a result, the project is driven by a number of factors, not all of which are part of core NDUS needs. Discussions regarding this project should reference all the various stake holders to ensure the appropriate constituents voice their support and responsibility.

The VCSU Fine Arts Building ranks third in capital project priority recommendations as it corrects a significant amount of deferred maintenance through demolition, which in turn results in improved operating efficiencies by replacing facilities with modern, cost effective units. In addition, the primary initiative for new construction is the demolition of Foss Hall. Consideration to support removal of the building should be considered carefully should a breach or failure of the flood protection in the future be the result of not removing the facility.

Category 1: Projects with Significant Life – Safety Mitigation

Project Title: VCSU Heating Plant Replacement
Amount Requested: $14,289,000
Amount Recommended: $14,289,000
Funding Source: State General Funds

Currently, VCSU has limited energy resources for heating due to a lack of overall natural gas supply to this area. During extreme cold spells, the utility provider curbs the use of natural gas in order to ascertain sufficient supply for residential customers, effectively limiting VCSU to other energy sources. For practical purposes, alternative sources include coal, fuel oil, or propane.

The existing coal-fired boilers at VCSU are placed within a stand-alone facility, and distribute steam to the campus via direct-buried steam lines. This type of heating system is common within institutional settings whereby a central plant serves many buildings, and generates numerous cost efficiencies as a result. It also creates a single point of failure for all campus as no individual building has a separate stand-by source of heat.

The existing boilers and heating plant structure have significant deferred maintenance liabilities, as well as sub-standard egress and ventilation. The boiler has failed on numerous occasions, and cannot be economically repaired. Boiler replacement efforts would require substantial amounts of demolition to the facility, greatly reducing the cost effectiveness of the repair. As a result, the most efficient long-
Term solution is to replace both the boiler systems and building, correcting all life-safety issues within the heating plant, as well as mitigating future life safety concerns for loss of heat during severe weather. The anticipated plan is to replace the three old outdated boilers with two new efficient boilers.

The VCSU Heating Plant replacement project has therefore risen to the top of the capital project priority recommendation due to the critical nature of its use, and the subsequent potential catastrophic results of the upcoming near-certain failure.

Project Title: NDSU Dunbar Hall II-Phase I, including demolition of Dunbar (Chemistry, Biochemistry, Geosciences, Biological Sciences)
Amount Requested: $45,900,000
Amount Recommended: $45,900,000
Funding Source: State General Funds
Construction of a new six-story building (referred to as Dunbar II) for replacement of the current Dunbar Hall and the subsequent demolition of the original building. The new building would be situated on the north side of the current Ladd/Dunbar complex and would be completed prior to demolition Dunbar I in order to allow operations to move out of that facility and directly to the new building.

This project would significantly upgrade out-of-date and potentially hazardous facilities in the current Dunbar building, accommodate past and future growth of the Department of Chemistry & Biochemistry, and result in the consolidation of Chemistry & Biochemistry into one building complex. The Department of Geosciences has also been programmed into this building due to existing synergies, thereby enabling the consolidation of the Department of Geosciences into a single space with room for growth and allowing the department to move completely out of Stevens Hall (it is currently distributed between Stevens and Geosciences Hall). The move of Geosciences from Stevens would create additional room for the Department of Biological Sciences, which also is very constrained for space. Finally, the new building will be critical for accommodating shared core laboratories for the Center for Protease Research (a center established via NIH COBRE grants) and for materials graduate and undergraduate education and research. The additional square footage provided is needed to improve the education experience of graduate students and undergraduate opportunities along with fostering the needs of PhD programs. To accommodate research functions within traditional educational facilities, NDSU has crafted a co-use facility within the existing Dunbar Hall. Although functional, it relies on single-station systems which create a single point of failure for critical ventilation needs. In addition, the capacity use of the building has created egress and life-safety concerns which must be addressed.

Correcting the above deficiencies within Dunbar Hall is possible, but it would require vacating the facility as the renovation work would render the building unsuitable for occupancy. As there are no surge facilities available on campus, a temporary solution for occupancy elsewhere is impossible, and attempting to do so would have severe detrimental effects on the function of all departments. With consideration for the lack of temporary space, the unsuitability of Dunbar Hall for its current use, and the overall high level of deferred maintenance of virtually every system within the building, the most cost effective solution is construction of a new facility followed by the subsequent relocation of occupants and demolition of Dunbar Hall.
In a future phase, Ladd Hall will be renovated. Remaining will be the construction of a new building to be located in the footprint of the original Dunbar facility.

The NDSU Dunbar II Project occupies the second highest priority recommendation position due to the urgent nature of conditions that pose life-safety threats to the occupants, as well as the significant amount of deferred maintenance that will be removed as a result of the subsequent demolition of the existing Dunbar Hall.

**Project: DCB Nelson Science Center Renovation**

**Amount Requested:** $1,098,789  
**Amount Recommended:** $1,098,789  
**Funding Source:** State General Funds

This project, although high in deferred maintenance mitigation, also addresses a major life-safety concern within the existing teaching laboratory spaces. Low ceiling heights, coupled with an inadequate ventilation system, allow for unacceptable levels of formaldehyde (a carcinogen) fumes to accumulate near the breathing zone with this 1972, 16,000 SF structure. The unmistakable odor is noticeable for hours after the completion of class lab work, suggesting that both HVAC capacity and operation are inadequate.

The project scope includes installation of a new perimeter heating system and piping, new return air ducting, new HVAC controls, a new heat exchanger, and exhaust system. In addition, the project also includes new FF&E components that improve the teaching spaces such as instructor desks, lab workstations, student tables & chairs, storage, demonstration tables, and fume hoods.

As indicated above, the substantial deferred maintenance being corrected is significant. Overall, the facility structure is somewhat dated, but the design and layout well serve the type of education currently being delivered at DCB, and will do so well into the future with the proposed renovations.

The Nelson Science Center is a relatively small project in comparison to others on the capital project priority list. Nevertheless it provides an extraordinary ROI for the NDUS and DCB based on the life-safety and deferred maintenance liability mitigation it offers. If not funded as a stand-alone capital project, it should be included as part of a deferred maintenance pool.
Category 2: Projects with Significant Deferred Maintenance Mitigation

**Project Title: BSC Major Campus Infrastructure**

**Amount Requested:** $1,575,000 (excluding special assessments request)

**Amount Recommended:** $1,575,000

**Funding Source:** State General Fund

BSC has grouped together a number of major infrastructure projects that, when taken as a whole, present an extraordinary reduction in critical deferred maintenance needs for the campus. Project includes:

- replacing outdated and inefficient boilers with new high-efficiency units (est. $675,000)
- new primary electrical distribution system (est. $500,000)
- new IP telephone system, in cooperation with either UND or NDSU (est. $300,000)
- new in-line filter system for irrigation system (est. $100,000)

In total, the BSC Major Campus Infrastructure project has enormous ROI in terms of system functionality and future operating efficiency savings. The original request included $950,000 in funding for special assessment debt retirement which has been removed, although a portion of the debt has been included in the request for one-time special assessment payment funding.

**Project Title: NDSCS Campus Water & Sewer Infrastructure**

**Amount Requested:** $13,298,000

**Amount Recommended:** $13,298,000

**Funding Source:** State General Funds

This project was specifically identified within the Paulien and Associates NDUS System-Wide Master Plan as an appropriate and urgent infrastructure investment which will wholly reduce deferred maintenance by the value of the project. (The value of other infrastructure projects within the system and included in this request have not been calculated or included within the current $800,000,000 estimate.) This project has the potential to greatly reduce future operating costs due to the nature of the infrastructure being replaced: Sewer and water mains, which often fail during extreme cold, can be very difficult and expensive to repair during winter months, and cause a significant amount of disruption to buildings served by the utilities.

Project scope of work includes: $1,595,000 for planning-fees-permits; $3,264,900 for the actual sewer and water mains (including new fire hydrants, etc.); $7,618,100 for restoration of roadways and parking lots (some of this will be for storm water appurtenance as it is tied to the paving); and a contingency of $820,000. Although some infrastructure repairs and improvements have been completed in the past, most have be part of a larger capital improvement whereby the infrastructure work was directly related to the larger project and did not serve a broader field of facility components. Additional infrastructure work may be requested in the future as this project does not replace all the utility infrastructure, but instead only that which should be replaced at this time.

The NDSCS Campus Water and Sewer Infrastructure project may not directly impact program needs or other ranking criteria as directly as projects scopes which affect improvements within buildings.
Nevertheless, the risk-avoidance provided by this type of forward-thinking planning is both commendable and practical, and results in a high-ranking for this project.

**Project Title:** LRSC Switchgear, Electrical Service, Window Replacement project  
**Amount Requested:** $1,648,423  
**Amount Recommended:** $1,648,423  
**Funding Source:** State General Funds

The project scope includes replacement of electrical distribution switchgear (the primary building disconnect) and electric service panels which are original to the building construction and no longer have repair or replacement parts available. In addition, the panels are at capacity, with replacement allowing additional circuits to be added as demand for technology and other related energy needs grow. A thermal scan of the existing panels when under operation identifies hot spots which suggest a high probability for near term failure. Estimated cost of the replacement is $807,930.

A number of wood frame windows throughout the college facilities are in need of replacement. Energy loss through the existing windows is high, many have lost functionality, and are aesthetically unpleasing. In addition, the window decay has caused masonry components surrounding the windows to decay, and must be repaired as part of the window replacement. Estimated cost of the repairs is $840,490.

Similar to other infrastructure repairs within the system, the LRSC project presents extraordinary ROI on deferred maintenance reduction as well as reduced operating costs. In general, the project addresses both critical and deferred maintenance needs, but like many other similar improvements does not have a direct impact on other ranking criteria.

The above stated, the electrical work and window replacement remains an excellent investment, and should be considered strongly for inclusion within a list of projects funded by a deferred maintenance pool should it not be considered for stand-alone funding.

**Category 3: Projects Addressing Program or Accreditation Needs**

Note that the projects listed below have merit, but they fall in a lower ranking due to the lack of deferred maintenance (in general) resolved as a result of the project. In addition, the lack of sufficient space utilization information system-wide makes program/accreditation based needs difficult to justify as there are no data benchmarks at each campus which can adequately support the need.

**Project Title:** NDSU Sudro Hall Renovation, Addition, Accreditation / Program needs (Pharmacy, Nursing and Allied Health)  
**Amount Requested:** $32,700,000  
**Amount Recommended:** $32,700,000  
**Funding Source:** State General Funds

Project scope includes an approximately 93,000 SF addition to Sudro Hall and associated renovation to the existing facility for pharmacy, nursing, and allied science programs. Recent accreditation facility reviews indicate that the both the amount and quality of space available for these programs are insufficient to maintain accreditation standards for the health profession programs, and subsequently NDSU is at risk to lose accreditation should corrections not be completed in a timely manner.
New and renovated spaces will include classrooms, research & clinical laboratories, student study and library space, and the associated improvements in learning technology. The investment will make the needed improvements to quality of education and training while addressing the physical size of spaces used for this function. Specifically, the new space will address ACPE accreditation concerns for pharmacy, as well as additional space needs for program grown in nursing, Masters of Public Health, two-way nursing distance education between Bismarck and NDSU, new training requirements within inter-professional education, and new programs planned for MHA, MS Education, and nursing genetic counseling.

This project has significant merit, but does not rise very high in prioritization as it does not address a significant amount of deferred maintenance. Based on the accreditation reports, the overcrowding and other issues will be a detriment for NDSU program certification in the future, and must be addressed at the earliest opportunity. In addition, planned program growth will be compromised without some form of facility expansion at NDSU as current space needs are critical.

Project Title: UND Strategic Renovation and Renewal
Amount Requested: $40,000,000
Amount Recommended: $10,000,000
Funding Source: State General Funds

Strategic Renovation and Renewal pool funding is directed at improvements within existing buildings which accommodate the needed changes in classroom design and function, as well as general building improvements which re-purpose facilities to create space utilization efficiencies. With consideration for the ongoing evolution of classroom design which meets the needs of yet-to-be-determined technologies and methods, the actual scopes of work can be resolved over time, better managing the funding and facilities together.

The following projects are included within the funding pool, although budgets indicated are only placeholders for potential scopes of work which will evolve as noted above.

- Re-deployment of the existing SMHS $10,000,000
- Chester Fritz Library modernization $7,000,000
- Chester Fritz Auditorium repurposing $5,000,000
- Shared clinical space development $5,000,000
- Classroom technology renovations upgrades $8,000,000
- Classroom building renovations $5,000,000

TOTAL $40,000,000

The Strategic Renovation and Renewal Pool has exceptional merit, but combines a number of large projects which could technically be separated into several smaller projects. The pool does accommodate a more flexible approach to resolving strategic needs, and allows the institution to more efficiently adapt to the changing pedagogy. Although the projects, depending upon scope of work, may address a significant amount of life safety and deferred maintenance, they cannot be prioritized using that criteria without further development of specific plans.
Note: The amount recommend has been reduced from the amount requested by 75%, but does not suggest a single stand – alone project would be funded by the entire appropriation. Instead, the request remains a pool allocation, and could potentially include any of the projects listed above.

**Project Title: WSC Allied Health Facility**
**Amount Requested:** $14,000,000  
**Amount Recommended:** $14,000,000  
**Funding Source:** State General Fund

Scope of work includes construction of a 30,000 sf instructional facility for Allied Health programs adjacent to Frontier Hall on the WSC campus. The facility would be used collaboratively within the NDUS to address critical training needs in NW North Dakota. The Healthcare Workforce Initiative specifies that training health care professionals within the State of North Dakota is the most practical (and most likely successful) way to create and maintain an adequate health care work force in our state.

Growing in parallel with the economy and related jobs in western North Dakota, the demand for health care workers can only be met by creating educational opportunities for the broad spectrum of student categories in this area. Many non-traditional students in the oil patch seeking an education and eventual employment in the health care industry are currently captured by existing economic or other needs and therefore unable to travel any appreciable distance to participate in training opportunities.

This student example represents one of many groups which can fill the health care workforce void, but the educational program opportunity must be made local. In addition, students familiar with the area, and possibly having familial or other strong ties with the region, have a much greater potential of remaining both within the education program as-well-as the local career opportunity upon graduation.

The WSC Allied Health Facilities strikes at the core of this issue by providing a setting for a cooperative and collaborative education that includes WSC, UND-SMHS, and the local health care provider. It is an urgent need, and rises to the top as a priority due to critical need in western North Dakota.

**Project Title: NDSCS Fargo Expansion Phase I**
**Amount Requested:** $65,000,000  
**Amount Recommended:** $10,000,000  
**Funding Source:** State General Fund

Project scope for Phase I would consist of land acquisition (est. $7 million), related site infrastructure costs (est. $2 million) and approximately $1 million for architectural – engineering services which would accommodate design of the site infrastructure as well as complete a substantial amount of the remaining program and schematic design effort for the entire project.

NDSCS is expanding program offerings, increasing flexible scheduling options, and enhancing student services to a greater number of adult and other non-traditional students at the NDSCS -Fargo location. The existing 56,433 sq. ft. STTC facility is quickly reaching capacity, and is not adequately designed to meet the developing programming and student support needs. Enhanced flexible, state-of-the-art facilities will be imperative if NDSCS is to provide the necessary instructional, student support and
Administrative services required to respond to the expectations of the increasing workforce needs of the state.

A pre-design analysis of existing and projected needs estimates that an approximately 210,000 sq. ft. facility will be required to accommodate the Fargo area. It would be possible to separate the overall facility needs into projects of 170,000 and 40,000 square feet in that order of construction.

The Fargo expansion presents an extraordinary opportunity for Fargo residents as well as NDSU. It suggests (and this has been confirmed by the master plan consultant) that development of two year programs in Fargo will stop a significant amount of out-migration to Minnesota, where students can enroll in two year programs nearby. In addition, the students enrolled in Minnesota have a propensity to remain in Minnesota institutions, and may not transfer as readily to NDSU if interested in going beyond a two-year degree offering.

**Note:** The facility component cost of $55,000,000 for the Phase 1 project has been removed, leaving the land acquisition and site development which must be completed prior to construction of the building improvements.

**Project Title:** MiSU CTE Building  
**Amount Requested:** $9,000,000 - $10,000,000  
**Amount Recommended:** $8,000,000  
**Funding Source:** State General Fund  
Scope of work includes approximately 19,000 SF in new construction. The facility would be located on the north end of the Minot State campus (north of the MSU Dome parking lot) next to the newly constructed Plant Facilities building. Project is a multi-purpose, multi-function facility which includes space for the variety of programs listed below, in addition to administrative and support areas.

**Background:** In 1996, when Dakota College at Bottineau became aligned with Minot State University, a priority for this new affiliation was for Bottineau’s community college to bring its authority to offer job preparation programming of two years or less to Minot. Minot State and Dakota College are in a unique position to assume the responsibility for career and technical education in this region of North Dakota. Dakota College at Bottineau would be able to offer 1- and 2-year programs in such areas as health information, paramedic technology, medical assistant, information technology, information management, business, caregiver services, land management, and paraeducation.

In addition, the other two-year colleges in North Dakota would be invited into this facility to offer such in-demand programs that might include electrical, plumbing, carpentry, automotive technology, welding, HVAC/R, etc. Of course, much of this would depend on the overall space availability in the new facility, demand, availability of faculty, and other financial considerations. However, there would clearly be new opportunities for all five two-year campuses throughout North Dakota to serve the Minot region through a brokering arrangement with MSU and DCB and thereby assist the state in helping provide the appropriate workforce to satisfy the growth and development of the Bakken.

The Minot Public School District has an impressive CTE program on the Magic City campus, and we would look forward to partnering with Minot High and working closely to create collaborative efforts
and new opportunities for their students. Additionally, MSU has a strong relationship with the Minot Catholic School system and we would anticipate working with Minot Bishop Ryan as well as other regional high schools to create new career options for students in the region.

Opportunities would also be available to ensure students taking their first or second year of college coursework would have an associate of arts and an associate of science pathway to transfer and enroll directly into Minot State University, similar to the current options available through the MSU-DCB Passport program.

**Project Title: NDSU Accreditation Project (Engineering)-Phase 1**
**Amount Requested: $27,200,000**
**Amount Recommended: $27,200,000**
**Funding Source: State General Funds**

The primary scope of work for this project is a new approximate 68,000 SF facility which connects to the civil and industrial engineering buildings. The building will be used to create classroom and other learning spaces which will be used by all the engineering disciplines; as well as providing additional space needed for the current growth of undergraduate students which are fueling the growth of the North Dakota energy economy.

The new space will also address the needs for the growing enrollment of graduate students by upgrading laboratory spaces used for the engineering disciplines. The new facility will attract and retain top researchers that are essential faculty for any competitive graduate school by providing the necessary research space. In turn, the college will eventually attract the best and brightest from around the world by offering the most modern facilities and top faculty in all engineering disciplines.

Although the project is has excellent ROI potential on the merits of increased enrollment alone, more importantly it addresses the concerns that have created a potential for programs to fall out of compliance with accreditation criterion in the future. Specifically, it includes unresolved issues for inadequate and outdated space for instruction, laboratory experiences, and computer technology applications; as well as overcrowding in spaces that are designed for smaller colleges and not that of NDSU with over 2,100 undergraduate and 350 graduate students.

Currently, NDSU is leasing space off campus for a number of colleges and related operations that would optimally be located under the same roof. The situation points to an overall shortage of adequate space, which is best demonstrated by the College of Engineering. Although not directly associated with buildings having life-safety or deferred maintenance needs, the new facility will be the first step in addressing those buildings which do in the near future.

**With consideration for the forecasted demand for STEM graduates in fields such as mechanical, electrical, civil, and other engineering disciplines within North Dakota, investments now in the engineering programs at NDSU are both critical and timely. With the potential loss of accreditation at stake, this project has risen to a high priority.**
Chart 4: **NDSU Related Entities**

As per statute, the projects listed are to pass through SBHE consideration and be remanded to the Governor for consideration without SBHE revision.

**Project Description: Main Station Veterinary Diagnostic Lab**

**Amount Requested:** $18,000,000

**Funding Source:** State General Fund

Scope of Work: A new and modern facility to house the veterinary diagnostic laboratory (VDL) at North Dakota State University. Minimum of 20,000 square feet (current facility is approximately 8,000 square feet) and be designed to allow cost effective addition of laboratory space, as needed, to meet future testing demands (e.g., meat testing, analysis of feed and animal samples for petroleum residues, international export testing). The facility should include adequate laboratory and office space for sample receiving, toxicology, serology, information technology, administration, clinical pathology, gross pathology, histology, quality assurance, bacteriology/mycology, virology and molecular diagnostic sections. In addition, space to house a library and conference/meeting room that can accommodate presentations for producer groups, veterinary groups and student groups should be included. Since the future of carcass rendering is uncertain, it is necessary to install a tissue digester to insure safe and adequate carcass disposal capacity. A new VDL needs to have dedicated Biosafety Level 3 necropsy/laboratory space (including the ability to capture effluent) to safely address current and future public health threats and potential introductions of foreign animal diseases. This facility should have a biosecure visitor’s entry with dedicated bathrooms. Adequate parking space, semi-truck and trailer access and a radiology room are needed. An enclosed receiving area that will allow for off-loading of animal carcasses, as well as live animals that may require euthanasia is required. Appropriate storage for archiving records and data storage is necessary. Adequate freezer space for individual labs and lockup of samples involved in litigation cases is important. The post mortem laboratory should have access points that allow shower-in/shower-out capability for personnel as well biosecure entry and exit points to safely contain animal and human pathogens. The entire building must be sufficiently secure with electronic card key access to individual laboratories. An alarm system including monitoring of major equipment and a back-up power source are necessary as well. Building surveillance cameras are suggested.

The NDAES Veterinary Diagnostic Lab (VDL) may lose accreditation because it does not meet modern laboratory standards. Loss of accreditation would affect North Dakota veterinarians and livestock producers relying on the facility for test results; would affect affiliation with the National Animal Health Laboratory Network (subsequently affecting funds for diagnostic equipment, proficiency testing for regulatory diseases, partial salary support for an IT position, and would prevent competition for surveillance testing contracts); would restrict access to Federal funds for bioterrorism preparedness and partial funding of technical support; inhibits the ability to conduct regulatory testing for animals crossing state and international borders; restricts surveillance of diseases of human health significance, such as rabies, anthrax, and West Nile virus; and affects the ability of the VDL to participate in the Veterinary Laboratory Response network for toxicology testing. Veterinary clinics often require the use of an accredited veterinary diagnostic lab for biopsies and bacterial culture. The loss of accreditation would result in significantly higher costs for animal health and regulatory testing for North Dakota livestock producers, veterinarians, and the public. The state would be unable to respond to animal health emergencies in a timely fashion.
Project Title: Main Station Meats Lab Facility  
Amount Requested: $7,600,000  
Funding Source: State General Fund  
Current Conditions: A new/upgraded facility is urgently needed. The current Meats Lab is approximately 7,500 sq. ft. and was built in the 1950’s and no longer serves the needs of modern meat science research. Annual repair and maintenance costs to the current facility continue to increase. Additionally, the Lab continues to struggle to meet the U.S. Department of Agriculture inspection requirements for safe meat handling and processing. A new facility is necessary because opportunities to grow the state’s livestock industries are tied to the knowledge of the end product and how that product meets the needs of national and international consumers. 
Scope of Work: Design features of a 19,000 sq. ft. facility would include animal holding and handling areas, an abattoir, processing and fabrication rooms, research labs, walk-in coolers and freezers, sensory evaluation labs, preparation kitchens, conference rooms, and other miscellaneous support, storage, and equipment rooms. 

Project Title: CREC, LREC, NCREC, WREC Seed Cleaning Facilities  
Amount Requested: $5,250,000  
Funding Source: State General Fund  
Scope of Work: Replace Seed cleaning facilities at CREC, LREC, NCREC, and WREC. Each Center will have one mill, with appropriate air screen cleaner, indent mill and gravity mill, augers, conveyors, and cyclone dust cleaning system. The capacity would be approximately 300 bu/hr, depending on type of crop being cleaned. The facility will have the appropriate electrical, ventilation, and heating necessary for electric eye separators (at CREC, NCREC, and WREC) to ensure a high quality product. 
Current facilities are antiquated, lack reliable capability to ensure high quality seed, are slow, and inefficient. These facilities were designed to handle cereal crops and have limited/no capability of cleaning pulse crops and other fragile seed that are in high demand. Also, the existing facilities pose considerable worker safety issues. The request is for four portable mills and building facility for the mill. Each Center will have one mill, with appropriate air screen cleaner, indent mill and gravity mill, augers, conveyors, and cyclone dust cleaning system. The capacity would be approximately 300 bu/hr, depending on type of crop being cleaned. The facility will have the appropriate electrical, ventilation, and heating necessary for electric eye separators (at CREC, NCREC, and WREC) to ensure a high quality product.
Chart 5: Non-State Funded Projects

Non-state funded projects are justified by each campus, with SBHE consideration related to affordability, need, and other measures considered when the project comes forward for approval should it be approved by the legislature. With that consideration, the projects are typically forwarded for inclusion within the Governor’s budget, with campuses justifying the need during the legislative session. As with all capital projects, the SBHE has final authority for approval once approved by the legislature.

Project Title: BSC Student Union Renovation
Amount Requested: $600,000 state
Amount Recommended: $600,000 local
Funding Source: see above

The project would include renovation of 8,500 sf in the lower level of the Student Union: new flooring, paint and lighting in the existing meeting rooms and offices, construction and furnishing of two new meeting rooms, construction of hallway from loading dock elevator to lower level book area, and updated furnishings for existing meeting rooms (alternate #6 of original bid). The project would also include lower level exterior entrance canopy and screen wall around mechanical and electrical equipment (alternate #4 in original bid).

The renovation of the lower level of the Student Union was included in the scope of the current Student Union renovation project which was approved for Revenue Bond funding by the legislature in 2013-15 session. Due to significant cost escalations in the Bismarck area, contractor bids came in much higher than budget. BSC needed to accept a deduct alternate for the lower level to stay within legislative authorization.

Upon completion of the addition and upper level renovation in December 2014, the main level of the student union will include auxiliary services (bookstore and foodservice), student governments/clubs, and student life support. The lower level will consist of nonfunctional space (vacated by the bookstore), student support functions (advising & counseling, office of associate VP of student affairs) and three meeting rooms. A main entrance to the building will be from the east parking lot through the east doors on the lower level. Students’, employees’ and visitors’ first impression of the building will be dingy, outdated and non-functional space -- a sharp contrast to the modern, bright, inviting and functional space of the main level.

Additionally, the campus will lose two large meeting rooms upon completion of main level renovations. Space on campus is at a premium, and meeting rooms for employee and visitor use continues to grow. Replacing the lost main floor meeting rooms on the lower level is needed to keep up with demand for use.

This project has merit, but does not address a significant amount of deferred maintenance, or life safety issues, and therefore ranks fairly low in overall priority.
Project Title: UND Student Engagement
Amount Requested: $6,000,000
Amount Recommended: $6,000,000
Funding Source: Donations/Private
Background: In January 2014 the State Board of Higher Education authorized UND to raise funds of up to $6,000,000 to support the expansion of space available and tailored to enhance student engagement. Funds will be used for renovation and/or new construction for a variety of facility needs which, although not yet designed, would be developed in consideration for the need to better engage students in the academic process of learning.

In anticipation of success in raising the necessary funding, this non-state funded project is being submitted for Legislative approval.

Note: This project may be submitted to the Office of the Governor for inclusion within the state matching grant program.

Project: NDSU Aquatic Center
Amount Requested: $11,000,000
Amount Recommended: $11,000,000
Funding Source: revenue bond/local
Scope of Work: Project would expand Wellness Center facilities on campus with the inclusion of an aquatic center immediately adjacent to the existing facility. Swimming/aquatic activity is a lifetime recreational activity and is a component of physical wellness that NDSU cannot currently offer because it does not have a functional swimming pool on campus.

Project Title: NDSU Memorial Union Dining Center Expansion and Accessibility
Amount Requested: $1,000,000
Amount Recommended: $1,000,000
Funding Source: local funds
The project consists of expanding the space for more seating and accessibility in the Union Dining Center in the Memorial Union. There has been a general 18% increase in traffic, serving 1,000 students during lunchtime and with an average of 1,900 per day. Due to the consistent rush-hour of users, the rising number of people would be better served by increasing the amount of tables and seating. Dining currently serves various persons with disabilities. Specific tables are reserved to accommodate their needs. However, due to the lack of space, these tables are adjacent to the serving lines. The additional traffic aforementioned has created a hardship for these individuals to sit with their meal companions.

Project Title: NDSU Residence Dining Center Kitchen Remodel and Roof Replacement
Amount Requested: $2,000,000
Amount Recommended: $2,000,000
Funding Source: local funds
Scope of Work: The project consists of remodeling the kitchen and replacing the roof. The remodel will replace piping stacks and mechanical including improved ventilation for ovens and grilles as well as increasing the utilization of space for prepping and cooking meals. Existing coolers and freezers will be moved and expanded for ease of storing food. The mechanical work will create additional penetrations
to a roof that will need to be replaced because of existing tears around the edges of the membrane. Addressing both projects at one time will be more cost effective and offer greater protection for the facility.

**Project Title: NDSU Low Rise Lavatories- Phases IV and V**
**Amount Requested:** $2,237,775  
**Amount Recommended:** $2,237,775  
**Funding Source:** local funds  
**Scope of Work:** The project consists of remodeling the low-rise residence halls bathrooms by replacing the piping stacks, mechanical (including improved ventilation) and more private areas for showers, sinks and lavatories. This project would be completed in five phases, beginning with the residence hall with the most damaged stacks. The residence halls included in this project include: Reed and Johnson Halls, North and South Weible, and Burgum. Energy conservation will be utilized along with long lasting and sustainable finishes.

Note: The projects are a continued series of investments by NDSU to reduce deferred maintenance within the resident hall facilities.

**Project Title: Minard Hall Settlement Agreement**
**Amount Requested:** $600,000  
**Amount Recommended:** $600,000  
**Funding Source:** Insurance proceeds, legal settlements, possible deficiency appropriations and other available funds  
**Scope of Work:** The NDSU request is for additional authorization for additional costs in the mediated settlement agreement for Minard Hall. Original Authorization: $22,874,300. Requested total additional authorization: $23,474,300.

**Project Title: NDSCS Robertson Hall Restroom Renovation**
**Amount Requested:** $1,500,000  
**Amount Recommended:** $1,500,000  
**Funding Source:** private/local funds  
**Scope of Work:** This project includes the renovation and repair of existing restrooms within Robertson Hall; including fixture replacement, new finishes, service piping, and other sundry tasks related to the renovation of the restroom facilities.

**Project Title: DSU Woods Hall Renovation**
**Amount Requested:** $7,500,000  
**Amount Recommended:** $7,500,000  
**Funding Source:** local ($600,000) oil impact grant ($800,000) revenue bonding ($6,1000,000)  
**Scope of Work:** Woods Hall (1965) has been maintained in good condition but has not been significantly renovated since the original construction. As a current nation-wide best practice, DSU is planning to convert the facility from a traditional resident hall to a modern suite style living space that is more conducive to academic success for students living on campus. The scope of work includes renovation of approximately 35,000
square feet of interior space including mechanical and electrical systems as well as hazardous material abatement.

**Project Title: VCSU Health, Wellness and Physical Education Facility**
**Amount Requested:** $16,000,000  
**Amount Recommended:** $16,000,000  
**Funding Source:** $15,000,000 private and $1,000,000 state challenge  
**Scope of Work:** Construction of a new wellness facility on the VCSU campus that will include classroom, faculty and lab space; fitness equipment; an indoor walking track; multipurpose courts; and pool. The facility will be used to support Athletic Training, Exercise Science, Health Education, and Physical Education academic programs, as well as serve as a wellness center for the student population.

**Project Title: VCSU W.E. Osmon Fieldhouse Addition-Phase 2**
**Amount Requested:** $3,467,750  
**Amount Recommended:** $3,467,750  
**Funding Source:** private  
**Background:** The Osmon Fieldhouse has obtained significant repairs over the years, including restoration of the primary wood-structure beams which support the roof. It is a notable landmark within Valley City, and serves as a focal point to the entrance for VCSU. The additions to the fieldhouse will be accomplished in phases, and include the following features which will be accomplished in priority order. They include, but are not specific to priority as: Additional fitness and wellness components, a new west entrance and parking lot, a west-side addition that provides multipurpose space, and the required restrooms and support facilities throughout.

**Project Title: DCB Dorm Updates and Remodeling (Including Gross Hall and Mead Hall)**
**Amount Requested:** $3,784,076 (state)  
**Amount Recommended:** $3,784,076 (local)  
**Funding Source:** state funds  
**Scope of Work: Gross Hall Improvements**
This campus housing project involves the renovation of 39 resident rooms and 2 central restrooms. Renovations include new furniture, fixtures, ceiling tiles, carpeting, lighting, windows and doors. The existing windows were installed in 1963. Their age requires extensive annual maintenance, and air infiltration creates discomfort within the dorm rooms. The present windows do not have thermal break or insulating glass. Both floors of this housing unit have a central restroom facility. The remodeling of these restrooms will provide residents with move privacy and comfort. Finally, all outstanding projects, identified in the campus ADA plan, will be addressed.

**Scope of Work: Mead Hall Improvements**
The Dining room is located in the lower level of Mead Hall and is the only cafeteria in the food service plan. Delivery to the kitchen on this same level is difficult. An elevator would provide access to these areas as well as the upper floors of the building.
Both floors and wings of this housing unit have central restroom facilities. The remodeling of these restrooms will provide residents with move privacy and comfort.
Project Title: DCB Allied Health & Wellness Center  
Amount Requested: $6,864,118  
Amount Recommended: $6,864,118  
Funding Source: $3,432,059 DCB fund raising and $3,432,059 City of Bottineau  
Scope of Work: This project includes the construction of a joint-use facility for delivery of DCB allied health programs; and wellness activities for both DCB students and the City of Bottineau. It will accommodate new programming endeavors in health information management and community paramedicine, and build on the current level of 23 programs either received or broadcast by DCB via IVN.

Chart 6: Projects Not Included in Recommendations

Project Title: DSU May Hall HVAC & Window Replacement  
Amount Requested: $4,032,960  
Funding Source: State General Funds  
May Hall presents itself as one of many landmark historical buildings within the SBHE portfolio across the State of North Dakota. Like Old Main at MaSU, it serves a vital function on campus in terms of its physical presence, but also remains fully functional as configured (or with the potential to reconfigure) for the foreseeable future. With consideration for its historic stature as well as its functional capability, maintenance investments in May Hall have an excellent ROI in terms of operating costs and efficiencies.

Replacing windows and HVAC systems work on both sides of the energy front, where one helps with heat loss/migration, and the other provides heating and cooling more efficiently. Together the improvements make the air quality and living environment much more conducive to productive learning and living.

Because of the significant cost associated with the two improvements, the project should be considered as a stand-alone effort and not as a part of a deferred maintenance pool. Work should be accomplished within the next four years to avoid potential system failure, and as such should be considered a priority in the future if not funded in 2015-17.

Project Title: DSU Student Academic Center  
Amount Requested: $14,884,665  
Funding Source: State General Funds  
The proposed Student Academic Center presents a strong mix of programmatic improvements, life-safety considerations, operational efficiencies, and reductions in deferred maintenance that, when combined, offer a strong argument for funding. The project pre-planning has been concise and thorough, with careful consideration given to the size, location, and function of the new facility.

The deferred maintenance reductions and life-safety aspects of this project rise from the planned relocation of programs currently located in a sub-standard building environment. The Visual Arts department will be relocated to this facility from a former Department of Transportation facility. This structure has significant deferred maintenance, is inadequate for use, poses egress and fire protection problems, and has insufficient ventilation for the current utilization.
Strategically, the DSU Student Academic Center offers an extraordinary value for higher education in this region. It will provide modern learning spaces, modern collaborative spaces, and be located centrally to provide easy access for all DSU departments. By eliminating the deferred maintenance and life safety liabilities present within the existing Department of Transportation facility, future savings in operation and maintenance costs will be realized.

In consideration for the multiple benefits offered by this project, that must include the potentials for restoring lost enrollment, the DSU Academic Center is a practical, cost-conscious project that ranks high as a priority for DSU and the NDUS.

Project Title: LRSC Dakota Precision Ag Center Facility  
Amount Requested: $12,405,968  
Funding Source: State General Funds

Created in 2006 as a N.D. Center of Excellence by Department of Commerce, the DPAC has been twice funded under that initiative and has attracted funded participation by numerous federal agencies. The program is designed to train precision agriculture technicians, and conduct research into design and development of precision technologies which will spur business development.

It is currently operating from leased space originally used as an implement dealership. The total amount of space available is wholly inadequate for the function of the program, and presents numerous egress, ventilation, and fire protection concerns which must be corrected. In addition, the location of the space is not conducive to the development of programmatic synergies which would be created if the program was located on the campus proper.

The LRSC DPAC Facility presents a significant life-safety concern which should be addressed. When coupled with the programmatic benefits of a new facility, this project rises on the list of priority recommendations and represents tremendous value for the estimated cost.

Project Title: MaSU Classroom Building Renovation  
Amount Requested: $9,632,060  
Funding Source: State General Funds

With an original construction date of 1968, the MaSU Classroom Building has accrued a significant amount of deferred maintenance, and requires numerous improvements in order effectively provide educational service to students.

Currently, the facility is not ADA accessible, and has insufficient restroom fixtures to meet current code occupancy requirements. The building envelope requires maintenance to avoid any potential weather related damage including structural compromise.

With consideration for the deferred maintenance needs and ADA accessibility requirements, the most cost effective solution to keep this building fully functional is a complete mechanical/electrical renovation, interior space reconfiguration with new finishes, and a modest addition which will accommodate the ADA accessibility requirements along with additional classroom space for the facility.
The MaSU Classroom Renovation project is a commendable venture which includes repairs that must be completed either separately from the renovation as part of a deferred maintenance pool, or together with a major renovation effort. With consideration for the existing conditions, this project could effectively wait for the following biennium if certain deferred maintenance items can be addressed in the short term.

**Project Title: MaSU Old Main Renovation**  
**Amount Requested:** $19,267,525  
**Funding Source:** State General Funds  
Certainly a landmark in North Dakota, Old Main has served faithfully over the entire course of history at MaSU. The structure is remarkably sound, with a location and overall layout that remains conducive to programs and teaching methods inherent to the MaSU mission. As with many older structures, significant renovations present challenges both in construction as well as viability: The relative cost must be weighed in comparison to new construction.

With consideration for the “value of presence” retained in this historic structure, as well as its structural soundness, renovation costs are justified and most likely offer more improved space per dollar than new construction. The overall scope of work contains all the key elements necessary to bring the structure into compliance with applicable codes, and will result in a modern building with a historic shell.

Careful consideration has been given to other options, including “do nothing” and demolition in review of this request. Long-term viability will be maintained with the investment, but certain loss of fidelity will result if no action is taken in the years ahead. The ability to invest in a one-time renovation vs. multiple small projects will greatly reduce the inevitable total cost, as well as reduce disruption for occupants. With that consideration, the Old Main Renovation ranks high as a capital project priority.

**Project Title: MiSU Geothermal Expansion**  
**Amount Requested:** $4,500,000  
**Funding Source:** State General Funds  
This project would result in operational cost savings, but does not address a significant deferred maintenance need. Other campus projects which would provide both operational savings as well as deferred maintenance would be more appropriate and rank higher, but were not included as a request.

**Project Title: MiSU Purchase and Renovate Augustana Church**  
**Amount Requested:** $2,500,000  
**Funding Source:** State General Funds  
Although the structure appears to be in remarkably good condition, costs for renovation appear to be excessive in terms of space gained or improved. Existing space utilization information does not suggest additional space (for the suggested programs) is needed at MISU.

**Project Title: NDSU Crop Quality Food Science Facility (Harris Hall replacement)**  
**Amount Requested:** $32,000,000  
**Funding Source:** State General Funds  
NDSU’s Harris Hall currently houses the Crop Quality Food Science (CQFC) programs within a very cramped and antiquated research & teaching environment. Of particular merit in notation, the existing
facility houses the cereal chemistry/cereal quality program which is one of only two in the nation. The programs are key components in maintaining North Dakota crop quality, with the Food Safety program the only one in the nation offering certificate, B.S., M.S., and Ph.D degrees.

The building shortcomings created by deferred maintenance on system components (some now failing) has resulted in occupants accommodating their own needs with methods best described as “primitive” and “crude”. It includes inadequate HVAC, lack of safety systems, decaying plumbing systems, and a host of other concerns that greatly reduce the quality of life within this facility both as a place of work and education.

In addition to the effective elimination of deferred maintenance within the existing facility, the project also includes the demolition of the North Lord & Burnham greenhouse, reducing the overall amount of space operated and maintained on the campus.

Although the life-safety concerns for the existing building are present, they are dwarfed by the deferred maintenance liabilities which must be addressed before the facility becomes unfit for occupancy. This preponderance of need results in ranking the Crop Quality Food Science facility at the top of the deferred maintenance priority listing.

**Project Title: UND Infrastructure Pool**
**Amount Requested: $40,000,000**
**Funding Source: State General Funds**

As a means to identify and group significant deferred maintenance repairs and safety/security improvements into a single project request, the UND has completed a high-level needs assessment with the appropriate budget estimates which will allow for project scopes to be developed more fully based on prioritizations as the work is completed. This innovative approach will allow UND to complete necessary work, with adjustments to the budget made as needed. With consideration that estimates will grow and compress, the overall funding request will accommodate the anticipated variation.

The UND Infrastructure Pool request of $40M includes the following projects:

- Steam Plant Boiler Replacement $6,075,000
- Steam Plant Coal Storage Improvements $2,750,000
- Electrical Distribution Improvements $15,000,000
- IT Infrastructure Improvements $5,000,000
- Paving Improvements – Parking Structure $8,000,000
- Building Security / Safety Infrastructure $2,500,000
- Contingency $675,000

To clarify by example, and if funded to the full $40,000,000 requested, UND may undertake replacement of the steam boiler as identified in the VFA report, as well as the Electrical Distribution Infrastructure. The electrical infrastructure could be bid in phases that suits the nature of electrical distribution as a point-to-point component in which specific segments can be fully completed while others remain in the current condition. Should steam plant boiler costs increase, budget for the electrical distribution could
be transferred as needed to complete the work, with the subsequent completion of the electrical
distribution system being a future funding request if necessary.

The above projects are long-range, planning intensive operations which must be completed over several
years (boiler replacement could take as much as 4 years). With consideration for the current
construction cost environment, early commitments to construction will require that the full funding pool
be either appropriated or somehow guaranteed through lending in a means similar to that of the School
of Medicine and Health Sciences facility currently under construction.

Overall, the infrastructure improvement pool is an ambitious undertaking which removes a significant
amount of deferred maintenance on the UND campus. With the addition of safety and security needs,
the project rises to the upper level of prioritization and therefore merits careful consideration. Of
special note is the inclusion of a parking structure: Due to the high cost of constructing EPA approved
flat parking, along with the escalating costs of snow removal (snow must be hauled off-site), parking
structures are comparable in life cycle costs to flat parking. Both are beyond the ability to be self funded
by users, and should be approached as a utility infrastructure no different than water or storm sewers.
## FY15 Presidential Salaries, SBHE BFC Recommendation, 08-19-14

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1/ the median is the middle value of a series of values laid out in numerical order. It’s the middle point of the data set. Half of the values will be less than the median, and half will be higher than the median.

2/ medium programs awarding 100-199 master’s degrees awarded in 2008-09

3/ medium = 2500-7500 HC

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August 21, 2014

Timothy P. Carlson  
Chief Auditor  
North Dakota University System  
1815 Schafer Street, Suite 202  
Bismarck, ND 58501

Dear Tim,

This letter serves as notice of your continuing appointment to the position of Chief Auditor continuing through June 30, 2016. This appointment is subject to review and extension on an annual basis, on or about July 1st of each year. This position is non-broad banded and is subject to the policies of the State Board of Higher Education, but is exempt from policy 608.2. Duties and responsibilities are stated in the attached position description.

Effective July 1, 2014, your salary will be $140,400 annually, plus benefits. Salary adjustments will occur annually each year on July 1, to coincide with the new fiscal year. Your compensation is subject to payroll deductions as provided by law and policy.

Your work to date has been excellent and I especially commend you for re-establishing the line of communication between the SBHE and the State Auditor and his office. Your attention to detail and your thoroughness on the job are hallmarks of a good auditor.

This letter will be placed in your official personnel file. Please acknowledge receipt by signing and dating below, and return to Sharon Schwartzbauer. You may also submit any comments you would like filed with this letter.

Sincerely,

[Signature]
Kathleen Nese  
Chair, Audit Committee  
State Board of Higher Education

I acknowledge that I have read this letter and accept the terms of the appointment described above.

[Signature]  
Timothy P. Carlson  
Chief Auditor  
Date 8-21-2014
August 28, 2014

Dr. Kirsten Diederich, Chair
North Dakota State Board of Higher Education
10th Floor, State Capitol
600 East Boulevard Avenue, Department 215
Bismarck, ND 58505-0230

Dr. Larry Skogen, Interim Chancellor
North Dakota University System
600 East Boulevard Avenue #10
Bismarck, ND 58505

Dear Chair Diederich and Chancellor Skogen:

The Advisory Visit team recently completed its work and has provided its findings to the Higher Learning Commission. The purpose of the Advisory Visit, as former President Manning outlined in her July 29, 2013 letter, was to gather additional information about how the public colleges and universities and the Board work together to ensure compliance with the Commission’s Criteria for Accreditation, particularly,

- Criterion Two, Core Component 2.C, requiring an autonomous governing board that makes decisions in the best interest of the institution and assures its integrity;
- Criterion Five, Core Component 5.B, requiring that governance and administrative structures promote effective leadership and support collaborative processes;
- Criterion Two, Core Component 2.A, requiring that an accredited institution operate with integrity and establish and follow fair and ethical policies; and
- Criterion Five, Core Component 5.D, requiring that an accredited institution systematically work to improve its performance by, as noted in the sub-components, learning from its operational and other experiences.

In addition, former President Manning also asked the team to gather information on Measure 3, the proposed amendment to the North Dakota Constitution that will change how governance of public colleges and universities takes place in North Dakota.

The Advisory Visit took place on April 28-29, 2014. The team subsequently compiled its findings, including those regarding the Criteria for Accreditation, in a final team report. That report is enclosed for your review and response. The team also prepared a separate report on Measure 3, the proposed Constitutional amendment addressing the governance of state colleges and universities, which I will provide under separate cover. As is customary with an Advisory Visit report, the team makes no recommendation in its report regarding Commission action.
At the time last summer when former President Manning outlined the scope of the Advisory Team’s review there was considerable concern at the Commission about whether the North Dakota University System was in compliance with the requirements noted above. I am pleased to report that the Advisory Team has found the system and its accredited colleges to be in compliance with these requirements. I believe that you, the Board and the system office staff members are to be commended on the diligent work you have done in the months between July 2013, when the Advisory Visit was ordered, and April 2014 when the visit took place, to ensure that the system was functioning in compliance with good practices in governance and the requirements of the Commission. You are to be commended for that work and your commitment to staying the course for continuous improvement.

While we want you to appreciate the strength of the above findings, the Advisory Visit report does note several areas in which additional improvement is necessary to ensure that governance in North Dakota functions optimally as anticipated by the Commission’s requirements. In addition, the Advisory Team has determined that Core Component 5.D, requiring that an accredited institution work systematically to improve its performance, is met, but with concerns. While the team credited the Board and the system staff with a genuine commitment to working on systematic improvement, the team concluded that the Board and the system office had not yet demonstrated mature and systematic approaches to planning, evaluation and training necessary to improve their own performance or the performance of the institutions the Board governs. While we fully respect the aspirational planning underway, we do need to continue to assure realization of those goals. An Advisory Team makes no formal recommendation; however, the team suggested in its report that further Commission monitoring should be scheduled to assure that the efforts of the Board and the staff continue and develop into the systematic approaches anticipated by the Commission’s requirement. I agree with the team’s advice.

The Commission’s Board of Trustees will consider the Advisory Team report at its next meeting on October 30-31, 2014. I will be recommending to the Board of Trustees that it schedule Commission monitoring for the North Dakota State Board of Higher Education and the system office related to their ongoing efforts to improve their own performance and the performance of the public colleges and universities in North Dakota. Such monitoring is likely to require in six-to-twelve months the filing of a written report and the scheduling of a focused evaluation visit to review whether the Board and system office are working to refine and strengthen their work on systematic improvement.

The Commission’s Board of Trustees, at its discretion, may determine alternatively that Notice or no monitoring is warranted. Notice is a public sanction that indicates an institution, while still in compliance with the Criteria for Accreditation, is nevertheless at risk of being out of compliance with one or more Criteria for Accreditation if that institution does not work hard to make necessary improvements.

You have the option of providing a response to the findings of the team and to this letter and recommendation. I will need to receive your response no later than September 15, 2014. The Board will consider the report, this recommendation, and your response at its meeting in October. The action of the Board will be communicated to you following that meeting. Please note it usually takes 10 days to two weeks for these letters to be transmitted and received.
If you have any questions, please contact Karen Solinski, Vice President for Legal and Governmental Affairs, who is coordinating the arrangements for this visit and for the October action.

Thank you for your cooperation in this review.

Sincerely,

Barbara Gellman Danley
President

Enclosure

cc:  Dave Clark, Interim President, Bismarck State College
     Ken Grosz, Campus Dean, Dakota College at Bottineau
     D.C. Coston, President, Dickinson State University
     Douglas D. Darling, President, Lake Region State College
     Gary D. Hagen, President, Mayville State University
     Steven Shirley, President, Minot State University
     John Richman, President, North Dakota State College of Science
     Dean L. Bresciani, President, North Dakota State University
     Robert O. Kelley, President, University of North Dakota
     Margaret Dahlberg, Interim President, Valley City State University
     Raymond Nadolny, President, Williston State College
     Karen L. Solinski, Vice President for Legal and Governmental Affairs, Higher Learning Commission
REPORT OF AN
ADVISORY VISIT FOR THE PRESIDENT AND THE BOARD OF TRUSTEES
OF THE HIGHER LEARNING COMMISSION

TO

North Dakota University System, Bismarck, ND

Bismarck State College
Dakota College at Bottineau
Dickinson State University
Lake Region State College
Mayville State University
Minot State University
North Dakota State College of Science
North Dakota State University
University of North Dakota
Valley City State University
Williston State College

April 28-29, 2014

The Higher Learning Commission
A Commission of the North Central Association of Colleges and Schools

EVALUATION TEAM

Dr. Harry J. Berman, Immediate Past Executive Director, Illinois Board of Higher Education, Springfield, Illinois, 62701

Dr. Lynne E. Olson, Faculty Ombudsman, The Ohio State University, Columbus, Ohio 43210

Dr. David W. Wantz, Special Assistant to the President, University of Indianapolis, Indianapolis, IN 46227

Dr. John W. Marr, Jr., Dean of Academic Affairs – Eastern Campus, Cuyahoga Community College, Highland Hills, OH 44122, Team Chair
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I. CONTEXT AND NATURE OF VISIT

A. Purpose of Visit

This advisory evaluation visit to the North Dakota University System (NDUS) was conducted April 28-29, 2014 at the request of Higher Learning Commission (HLC) President, Dr. Sylvia Manning. In her July 29, 2013 letter to the North Dakota State Board of Higher Education (SBHE) Board Chair, Dr. Kirsten Diederich, and Interim Chancellor, Dr. Larry Skogen, Dr. Manning noted that the visit was prompted by a formal complaint received by the HLC as well as “numerous articles in the media describing a governance situation in North Dakota marked by turmoil and controversy.”

Key areas of concern addressed in the complaint, and echoed in regional media, include possible violations of state open meetings laws, changes in reporting lines and communication patterns that limited the access of college and university presidents to members of the Board, and the work/leadership style of former Chancellor, Dr. Hamid Shirvani, which gave rise to the ethics concerns and appeared to have resulted in widespread employee dissatisfaction and premature separations for several key employees.

The purpose of the visit was to learn how North Dakota’s eleven state-assisted colleges and universities and the state’s current eight-member, gubernatorial-appointed controlling board work together to ensure compliance with the HLC’s Criteria for Accreditation. Of specific interest is the System’s compliance with

a. Criterion Two, Core Component 2.A, requiring that an accredited institution operate with integrity and establish and follow fair and ethical procedures;

b. Criterion Two, Core Component 2.C, requiring an autonomous governing board that makes decisions in the best interest of the institution and ensures its integrity;

c. Criterion Five, Core Component 5.B, requiring that an accredited institution’s governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission, and;

d. Criterion Five, Core Component 5.D, requiring that an accredited institution work systematically to improve its performance by, as noted in the sub-components, learning from its operation and other experiences.
Additionally, the evaluation team was requested to learn more about a ballot measure (House Concurrent Resolution No. 3047), scheduled to go before voters in November of 2014. If approved by voters, this Resolution, commonly known as Measure 3, would change the state’s constitution by abolishing the SBHE and replacing it with a three-member appointed Commission of Higher Education.

B. Accreditation Status

North Dakota’s higher education system is comprised of eleven two-year, four-year, and graduate/research colleges and universities. Each NDUS institution is separately accredited by HLC. The SBHE serves as the sole governing board for each NDUS college or university and derives its legal authority from enabling language contained in the Constitution of North Dakota.

The eleven NDUS member institutions are listed below. Following the location of each college or university are the years of each institution’s last and next reaffirmation of accreditation according to current HLC records.

- **Dakota College at Bottineau, Bottineau, ND** (Last: 2009-2010; Next: 2019-2020)
- **Lake Region State College, Devils Lake, ND** (Last: 2010-2011; Next: 2020-2021)
- **Mayville State University, Mayville, ND** (Last: 2005-2006; Next: 2015-2016)
- **Minot State University, Minot, ND** (Last: 2007-2008; Next: 2017-2018)
- **North Dakota State College of Science, Wahpeton, ND** (Last: 2008-2009; Next: 2015-2016)
- **North Dakota State University, Fargo, ND** (Last: 2005-2006; Next: 2015-2016)
- **University of North Dakota, Grand Forks, ND** (Last: 2013-2014; Next 2023-2024)
- **Valley City State University, Valley City, ND** (Last: 2011-2012; Next: 2021-2022)
Although each institution is ultimately accountable to the same governing board, the accreditation histories, time frames, and processes to be found across NDUS institutions reflect a diverse system that is dealing with the full range of issues and challenges to be found in higher education. Additional information on the accreditation status of each NDUS college or university can be found in each institution’s “Statement of Affiliation Status” report on file with the HLC.

C. Organizational Context

At more than 70,000 square miles, North Dakota is the nation’s 19th largest state in terms of land mass. With a 2013 US Census estimated population of only 723,393 residents, however, North Dakota is the third least populated state in the US. The state’s eleven colleges and universities are distributed roughly in an efficient grid pattern across the state with most institutions at significant distances from the state capital in Bismarck.

These and many other factors have influenced the structure and governance of higher education in North Dakota. As required by HLC practice, the present team endeavored to study and understand NDUS’s challenges in light of its mission and prevailing conditions in the state of North Dakota.

The purpose of this visit was to address the functioning of a governing board that governs several institutions through a consolidated process, in this case a governing board with responsibility for the oversight of eleven campuses, each of which maintains its own HLC accreditation. Some of the Criteria for Accreditation (e.g., those pertaining to effectiveness of student learning) address the operations of an institution and do not apply to a governing board per se. However, Criterion Two; with its emphasis on integrity, ethics, and responsible conduct; and Criterion Five, with its emphasis on systematic improvement of performance, are highly relevant to the functioning of a governing board. The team’s focus was on those Criteria for Accreditation that pertain to the functions of an institution’s governing board.

D. Unique Aspects of Visit

The aforementioned constitutional authority, structure, and governance of higher education in North Dakota, coupled with the challenges that gave rise to this advisory visit, constituted an accreditation-related peer review that was unique in most aspects for most members of the team.

E. Interactions with Organizational Constituencies

The team’s meetings with organizational constituencies took place in a number of meeting rooms in the state capitol building in Bismarck and in a meeting room at the team’s hotel. Individuals and groups that met with the HLC team included:
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- NDUS Interim Chancellor
- NDUS Senior Staff Members (7)
- NDUS College/University Presidents or Designated Representatives (11)
- ND State Board of Higher Education (10)
- Author of April 3, 2013 Complaint to HLC President Dr. Sylvia Manning
- ND Legislature Higher Education Funding Committee (5)

F. Principal Documents, Materials, and Web Pages Reviewed

Contents Reviewed on SharePoint Provided by NDUS

1. Correspondence with HLC – Issuing Complaint specific to HLC's Criteria 2.A., 2.C., 5.B., and 5.D.
   - Dr. Ellen Chaffee's Complaint 4-3-13
   - HLC Letter to Dr. Chaffee 5-13-13

2. Correspondence with HLC by SBHE/NDUS - Responses to Complaint specific to HLC's Criteria 2.A., 2.C., 5.B., and 5.D.
   - Chair Diederich Letter to Dr. Manning 3-26-14
   - NDUS 8-2-13
   - NDUS 6-13-13
   - HLC 5-12-13
   - HLC 7-29-13

3. NDUS Campuses Individual Statements of Affiliation and Organizational Status


   2.A. "The institution (i.e. system of institutions) operates with integrity in its financial, academic, personnel, and auxiliary functions; it establishes and follows fair and ethical policies and processes for its governing board, administration, faculty, and staff."
   - SBHE's Mission/Vision statements (approved 2000)
   - SBHE Policy 100.5 Beliefs and Core Value
   - Chair Diederich's Statement on Transparency and Trust
   - Incoming ND SBHE president wants fresh start – Prairie Business, June 19, 2013
- Diederich: Higher ed needs to restore trust – Prairie Public, Aug. 7, 2014
- Collaboration key for success – Bismarck Tribune, February 12, 2014
- Chair Diederich's newsletter columns: Dedication to Mission, Transparency Will Be Our Focus
- Chair Diederich's Blog
- Q&A with Larry Skogen (regarding his vision for shared governance) - ND United, January 2014
- Letter to the Editor: Collaboration key for higher ed – Bismarck Tribune, Feb. 12, 2014
- Chancellor's video messages to faculty and staff
- Live tweeting during SBHE meetings
- Interim Chancellor's Blog
- Dr. Larry Skogen (acting chancellor) interview on Mike McFeely Show – KFGO, July 19, 2013

Open records

- Open Meetings Law
- Guidelines to Board and NDUS Staff from General Counsel Mr. Seaworth 2012
- Guidelines to Board and NDUS Staff from General Counsel Ms. Ness 2013
- Attorney General's Office Training for SBHE/NDUS – 6/3/13 & 7/10/13
- SBHE Social Invitation Example

2.C. "The governing board of the institution is sufficiently autonomous to make decisions in the best interest of the institution (i.e., system of institutions) and to assure its integrity... (Its)... deliberations reflect priorities to preserve and enhance the institution (i.e. and the system of institutions)...(It)...reviews and considers the reasonable and relevant interests of the institution's (i.e., and the system of institutions') internal and external constituencies during its decision-making deliberations...(It)...preserves its independence from undue influence...(and it)...delegates day-to-day management to the institution (i.e., presidents and administration of the respective campuses)...and expects the faculty to oversee academic matters."

Governance and Organization of the State Board of Higher Education (SBHE), the North Dakota University System (NDUS), and NDUS's eleven Campuses

- SBHE Policy 310.1: Board President and Member Responsibilities
- SBHE Members and Terms
  Board Retreat on Governance Conducted by Buzz Shaw, May 2012
  SBHE Committees
    2012-13 Committees
    2014 Committees
      Budget and Finance Committee
      Academic and Student Affairs Committee
- SBHE Policy 330: Policy Introduction, Amendment, Passage, and Related Example(s)/ Documentation of Revision(s)
  September 5, 2012 revision
  November 21, 2013 revision
  Current
- SBHE Policy 100.6: Authority and Responsibility of the State Board of Higher Education, and Related Example(s)/ Documentation of Revision(s)
  September 26, 2012 revision
  Current
  SBHE Authority to Govern the NDUS
  NDUS Organizational Chart
  SBHE Agenda Structure 2011-2014
  SBHE Format for New Materials
  SBHE Training
  SBHE Meeting Webcasts
- Policy 304.1: Chancellor of Higher Education Authority and Responsibilities, and Related Example(s)/ Documentation of Revision(s)
  September 26, 2012 revision
  Excerpt from September 25, 2013 SBHE Minutes
  February 27, 2014 revision
Current

Chancellor and Executive Staff to the SBHE

Former Chancellor, Dr. Shirvani (Contract and Separation Agreement 2012-2013)

Current Interim Chancellor, Dr. Skogen

Skogen Acting Chancellor Contract June 2013
Skogen Interim Chancellor Contract November 2013
Skogen Annual Goals 2013-14
Skogen Vitae, Interim Chancellor

Chancellor's Senior Staff

Carlson Vitae, Chief Auditor
Cowen Vitae, Interim Vice Chancellor for Academic and Student Affairs
Donlin Vitae, Director of Communications and Media Relations,
Feldner Vitae, Vice Chancellor for IT and Institutional Research
Glatt Vitae, Vice Chancellor for Administrative Affairs
Sagsveen Vitae, Chief of Staff
Sprynczynatyk Vitae, Director of Strategic Planning

- Chancellor's Cabinet of Campus' Presidents and Their Role in Informing Board Governance 2011-13

  Cabinet Meetings in Advance of SBHE Meetings

    2013  Meeting Schedule
    2014  Meeting Schedule

- NDUS's Campus Presidents: 2012 – Current

- Policy 305.1: College and University President Authority and Responsibilities, and Related Example(s)/ Documentation of Revision(s)

  April 12, 2012 revision
5.B. "The institution's (i.e., system of institutions') governance and administrative structures promote effective leadership and support collaborative processes that enable the institution (i.e., system of institutions) to fulfill its (i.e., their) mission(s).

Structure of Collaboration in Decision-Making from Campuses through Councils, the Chancellor's Cabinet, Committees of the SBHE, and the SBHE, and Related Example(s)/ Documentation of Revision(s)

- SBHE Policy 302.4 Councils

  SBHE/Chancellor/Council Collaboration
  NDUS Councils
  Academic Program Log (Academic Affairs Council, Cabinet, SBHE Actions)

- Campus Councils

  Roles and Responsibilities Task Force
  NDUS Advisory Groups/Task Forces

5.D. "The institution (i.e. system of institutions) works systematically to improve its performance."

- NDUS Strategic Plan

  Connie Sprynczynatyk, Director of Strategic Planning
  Extension of Current Strategic Plan
  NDUS Strategic Plan
  Succeed 2020 & 2020 and Beyond

- NDUS Reports
2012 Performance and Accountability Report
2013 Fall Enrollment Report

- Future of Higher Education
  Distance Learning
  Unmanned Aerial Systems
  Realignment of Institutions
  Upper Great Plains Transportation Institute

- Pathways to Student Success
  Resolution

Pathways Task Forces (4)

5. Potential Legislative Change in SBHE Membership and Governance of NDUS
   - Measure 3 (Proposed legislation for ballot, ND, 11-4-14)
   - HLC (1-5-14) to ND Legislative Council
   - HLC (3-20-13) to ND Legislative Council
   - NDUS (12-23-13) to HLC

Additional Documents Reviewed by Team

SBHE Meeting Minutes and Retreat Minutes from May 2013 through March 2014, incl.:

SBHE Retreat Minutes 2012
SBHE Meeting Minutes May 16, 2012
SBHE Meeting Minutes June 14, 2012
SBHE Meeting Minutes July 12, 2012
SBHE Meeting Minutes July 19, 2012
SBHE Meeting Minutes September 5, 2012
SBHE Meeting Minutes September 26, 2012
Draft SBHE Executive Committee Meeting Minutes October 29, 2012
SBHE Meeting Minutes November 15, 2012
SBHE Meeting Minutes January 7, 2013
SBHE Executive Committee Meeting Minutes January 17, 2013
SBHE Meeting Minutes January 17, 2013
SBHE Academic Committee Meeting Minutes January 17, 2013
SBHE Meeting Minutes March 7, 2013
SBHE Executive Committee Meeting Minutes March 7, 2013
SBHE Audit Committee Meeting Minutes March 7, 2013
SBHE Academic Committee Meeting Minutes March 7, 2013
SBHE Meeting Minutes March 14, 2013
SBHE Meeting Minutes March 21, 2013
SBHE Meeting Minutes April 26, 2013
SBHE Meeting Minutes May 9, 2013
SBHE Meeting Minutes May 23, 2013
SBHE Meeting Minutes June 2, 2013
SBHE Meeting Minutes June 3, 2013 (first and second documents)
SBHE Meeting Minutes June 20, 2013
SBHE Meeting Minutes July 31, 2013
Auditor Committee Minutes October 29, 2013
SBHE Meeting Minutes August 7, 2013
SBHE Meeting Minutes August 23, 2013
SBHE Meeting Minutes September 6, 2013
SBHE Meeting Minutes September 16, 2013
SBHE Meeting Minutes September 24, 2013
SBHE Meeting Minutes September 25, 2013
SBHE Meeting Minutes October 25, 2013
SBHE Meeting Minutes November 21, 2013
SBHE Meeting Minutes November 26, 2013
Roles and Responsibilities Task Force Minutes December 4, 2013
II. AREAS OF FOCUS

A. Statement of Concerns Identified by the Commission President

The Commission identified the following Criteria, Core Components, and Sub-components as areas of concern:

**Criterion Two. Integrity: Ethical and Responsible Conduct**

The institution acts with integrity; its conduct is ethical and responsible.

**Core Component 2.A.:** The institution operates with integrity in its financial, academic, personnel, and auxiliary functions; it establishes and follows fair and ethical policies and processes for its governing board, administration, faculty, and staff.

**Core Component 2.C.:** The governing board of the institution is sufficiently autonomous to make decisions in the best interest of the institution and to assure its integrity.

**Subcomponent 1:** The governing board’s deliberations reflect priorities to preserve and enhance the institution.

**Subcomponent 2:** The governing board reviews and considers reasonable and relevant interests of the institution’s internal and external constituencies during decision-making deliberations.
Subcomponent 3: The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties when such influence would not be in the best interest of the institution.

Subcomponent 4: The governing board delegates day-to-day management of the institution to the administration and expects the faculty to oversee academic matters.

Criterion Five. Resources, Planning, and Institutional Effectiveness
The institution’s resources, structures, and processes are sufficient to fulfill its mission, improve the quality of its educational offerings, and respond to future challenges and opportunities. The institution plans for the future.

Core Component 5.B.: The institution’s governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission.

Subcomponent 1: The institution has and employs policies and procedures to engage its internal constituencies—including its governing board, administration, faculty, staff, and students—in the institution’s governance.

Subcomponent 2: The governing board is knowledgeable about the institution; it provides oversight for the institution’s financial and academic policies and practices and meets its legal and fiduciary responsibilities.

Subcomponent 3: The institution enables the involvement of its administration, faculty, staff, and students in setting academic requirements, policy, and processes through effective structures for contribution and collaborative effort.


Subcomponent 1: The institution develops and documents evidence of performance in its operations.

Subcomponent 2: The institution learns from its operational experience and applies that learning to improve its institutional effectiveness, capabilities, and sustainability, overall and in its component parts.

B. Statements of Evidence
The advisory team visit was prompted by allegations made in April of 2013 of non-compliance with accreditation standards. Much has changed in the intervening months — a new board chair, a new system Interim Chancellor, and new staff. The advisory visit team’s position was that rather than focusing on potential past violations of HLC Criteria for Accreditation, the evaluation would be based on an assessment of current practices and the degree to which current practices comply with HLC accreditation standards.

Evidence that demonstrates appropriate compliance in each area of focus

B-1. Criterion Two, Core Component 2.A.

Criterion Two, Core Component 2.A. addresses the integrity by which a range of academic and business functions are carried out within a college, university, or higher education system. While the current advisory visit focuses attention on the activities and functions performed by the SBHE directly, and to a lesser degree, the NDUS office, Core Component 2.A. establishes the standard of conduct for the SBHE, the System office, and for each of the eleven separately accredited NDUS college and university campuses.

The types of functions addressed by this Core Component include financial, academic, personnel, and auxiliary functions. Additionally, this Core Component specifically requires that an institution’s governing board itself establish and follow “fair and ethical policies and processes.” Core Component 2.A. is implicated in the complaint that prompted the current advisory visit in several ways, including allegations that the campus presidents’ access to the SBHE had been cut off, that important policy decisions were increasingly being made by the Chancellor with little to no input from key NDUS staff and campus presidents, and perhaps most seriously, that the SBHE operated in violation of North Dakota’s open meetings law.

In addition to Core Component 2.A., the team also found it necessary to investigate the possibility that the SBHE might not be operating in a manner consistent with HLC’s Assumed Practice A9, that stipulates that it is the board’s responsibility to “engage and dismiss the chief executive officer” (campus presidents). Given the importance of integrity as the foundation for maintaining public trust and achieving system effectiveness, the team worked hard to understand the actions that fueled this aspect of the complaint and to document the changes designed to restore and strengthen internal and external perceptions of the SBHE’s integrity. Evidence that demonstrates appropriate compliance in each area of focus includes:

- The NDUS office provided documentation addressing Criterion Two, Core Component 2.A., which focuses on integrity, as well as fair and ethical practices. This documentation included a widely distributed statement by the new Board Chair on transparency and trust; blog entries from blogs maintained by the Board Chair and the Interim Chancellor; recordings and
transcripts of television, radio, and newspaper interviews; links to webcasts; and live tweets of board meetings. In putting forward this information and these social media practices, the NDUS staff was, in effect, arguing that frequent communication and transparency in relation to board and staff actions are indicative of an organization that operates with integrity. The advisory visit team concurs that extensive communication with stakeholders and transparency with respect to board and staff actions are hallmarks of operating with integrity.

- The new leadership (Board Chair and Interim Chancellor) was faced with the challenge of what to do about policy changes and practices put in place by the previous leadership team which, it was alleged, had been imposed without or with very limited consultation. Should they let those policies stand? Should the Board rescind them? Or should they take some other approach? Various policies and practices adopted under the previous leadership and that were alleged to have been imposed with minimal consultation covered a broad range of activities and ranged from a major student-related policy initiative known as Pathways to the practice of not allowing presidents to directly address the Board. The advisory visit team received very consistent communication from the system office staff, the presidents, and the Board members themselves about what was being done about the controversial policies and practices. These policies and practices are being systematically examined and considered for elimination, continuation, or modification. As one of the presidents noted, the system is not just reinstating what had been in place. Rather, through a consultative process, with extensive involvement of the presidents, the Board and the Interim Chancellor are reviewing these policies and taking a more systematic approach to policy-making.

- With respect to the two examples cited above, the Pathways plan is now being considered by a task force composed of presidents and Board members, with a report due in June, and presidents can once again directly address the Board. This measured, consultative approach to re-examining policies and practices implemented by the previous leadership can, in itself, be viewed as an example of operating with integrity.

- The team also investigated whether NDUS or the SBHE has met its legal requirements to file Accountability Measures in 2012 and 2013. In 2001 the Legislature expressed its expectations for annual performance measures as part of the biennial university system budget bill. These annual reports cover topics such as workforce training, research expenditures, retention and
graduation rates, affordability of tuition and fees, income and operating rations, and so forth. The information is usually presented in graphical form as bar graphs, line graphs and tables with accompanying descriptive texts and an executive summary.

In her letter of response to Dr. Sylvia Manning, Board Chair Dr. Kirsten Diederich (3/26/14, p. 3, #8) recited the legal requirements for reporting accountability measures. She noted that in prior years, “the Legislature had described through legislative intent...the data to be provided. Such legislative intent was not provided for the 2011-2013 and 2013-2015 biennia.” This means that the Board was not given a clear direction as to what it was the Legislature wished to have reported. Nonetheless, Chair Diederich goes on, the SBHE continued to generate an annual report that addressed the general direction of past statements of legislative intent. Chair Diederich writes that future reports would measure progress on SBHE goals in the strategic plan such as the Pathways to Student Success initiative. Thus Dr. Diederich explains to Dr. Manning the effort made by NDUS to anticipate the Legislature’s unspecified demands and to inform the HLC how it intended to augment the reporting.

The team inspected both the Accountability Measures Report for 2012 (pub. 12/12) and the draft of 2013 report. The final version has not been completed; it is in final review. There was a significant change in Information Technology/Institutional Research (IT/IR) staff early in 2014 and the NDUS staff is reviewing the data for accuracy in some of the measures. Upon inspection, the draft comports to the 2012 report allowing a reader to make comparison between the reports.

At the present time it appears that while there is a legal requirement to file an annual report, there currently is no specific content required of that report. The specific measures had been cited in budget bills for the 2001, 2003, 2005, 2007, and 2009 biennia, but since 2009 no budget bill has required a set of specific measures to be reported. In other words, the SBHE must write a report but there is no guidance on what that report must contain.

The team concludes the SBHE, through the NDUS office, has acted in good faith to comply with an ambiguous requirement to file an annual Accountability Measures Report. The content of the report is not specified so the Board, at its discretion, must decide what is germane. The Board created the 2012 report using the previously specified measures. The 2013 report is in the final
draft stages. As to that 2013 report, there is no date certain when the report must be filed, but the team was given to believe the final reviews are nearly completed. Given the ambiguity of the content requirements, the staff changes in the IT/IR office, and the desire to assure the accuracy of the data, the team concludes the SBHE is acting in good faith in its recent filing and preparation of the Annual Accountability Measures Reports.

- The April 2013 allegations that prompted the advisory team visit noted violations of the North Dakota Open Meetings Law. In the intervening period, the Attorney General has provided two board trainings on the Open Meetings Law. The Board Chair acknowledged that there had likely been violations of the Open Meetings Law, especially with respect to discussions of board business at informal, closed gatherings. The advisory team was provided an example of the current practice, in which certain gatherings are explicitly publicized as "social," with the implication that, consistent with the Attorney Generals' training, board matters would not be discussed.

- At a broader level, operating with integrity is facilitated by establishing a climate free from intimidation, in which members of a community can express their opinions without fear of reprisal and in which, most simply, people talk to each other. NDUS staff, the presidents, and Board members all attested to the change in climate created by the new leadership. One staff member said, "Previously, there had been a climate of intimidation, a fear of responding had been in place. I don't see that now." Another long-time staff member noted, "It's a much different place. Board members are talking to each other." She went on to note that processes have been established which respect deliberation: "We're not rushing to push things through, we're considering the impact of changes." One president observed, "We're more engaged now than ever" and other presidents concurred with that assessment. Another president said, "We're 180 degrees from where we were." Board members made repeated reference to the importance of shared governance and inclusion of varying perspectives, while noting that "at the end of the day the Board has to lead." To the extent that a climate of collaboration facilitates operating with integrity, in the advisory visit team's judgment, such a climate conducive of operating with integrity is currently present in relations among Board members, the system office staff, and the campus presidents.

- Finally, in its preparation for the site visit and related to standards of ethical conduct, the team learned that one of the assumed practices shared by all accredited institutions might not be met. Specifically, A 9: "The governing
board has the authority to approve the annual budget and to engage and dismiss the chief executive officer of the accredited institution.” Given the many changes in policies, there was a question about the authority of the board to “engage and dismiss” not only the chief executive officer (i.e., the Chancellor), but also the presidents of the institutions accredited by the Commission. Specifically, the question was whether the Board had ceded authority to engage and dismiss campus presidents to the Chancellor.

The team inspected SBHE policies regarding hiring and dismissal. In SBHE Policy 305.1, sub. 7(a & b) the language is clear “… (the presidents) are hired by the pleasure of the Board. Each president shall have a written contract …” The policy further describes the terms of contracts, removal without cause, and a president’s “retreat rights,” that is, to return to a faculty post. In interviews, the Board members strongly endorsed their authority to hire and dismiss the presidents. The Presidents, likewise, confirmed that it is the Board that issues contracts and is the hiring and dismissal authority. A review of SBHE minutes indicates a Board discussion reaffirming the Board’s authority to hire the presidents (SBHE minutes 3/21/13).

The perception that the hiring and dismissal authority is otherwise likely is linked to the policy governing reporting lines of authority. Elsewhere the SBHE policies (305.2 & 3) state that the presidents report to and are responsible to the Chancellor for all matters concerning their institutions, that they are advisors on the Chancellor’s cabinet, and “have the authority to work with the Chancellor to develop, shape, and sustain the vision and mission” of their institutions. Section 305.8 describes the process whereby the Chancellor may initiate dismissal proceedings against a president and the process and rights inherent in that process. The final sentence in that section clearly states it is the Board that shall make a final decision regarding the president’s dismissal.

The presidents confirmed that they report to the Chancellor. Some answered a question that the Chancellor was also the hiring and dismissal authority. That perception of ultimate authority might be the result of an inartful question (To whom do you report?) rather than a more direct one: Who hires and dismisses the presidents? The concern raised to the team about hiring and dismissal authority, therefore, may likewise be explained by a misperceived question or answer about the Chancellor’s authority.
It is reasonable for the Board to delegate the authority to the Chancellor to supervise the presidents, even to recommend their dismissal. The evidence is clear, however, the State Board of Higher Education has the sole authority to hire and dismiss the presidents of the various institutions in the System. On review of the policies and interviews with the Board and Presidents, the team concludes NDUS fulfills the assumed practice concerning hiring and dismissal authority (A 9).

**Team Determination Criterion Two, Core Component 2.A.:**

- ✓ Core Component is met
- __ Core Component is met with concerns
- __ Core Component is not met

**Summary Statement on Criterion Two, Core Component 2.A.:**

The team’s review of many NDUS and HLC documents, coupled with individual and group interviews with NDUS staff and SBHE Board members confirms that the system is currently functioning with a high degree of integrity. The Board’s and NDUS staff’s approach to making progress in this area is particularly noteworthy. The system has made good use of traditional and high-tech communication tools through which it has established a high degree of transparency between and among its various constituents.

NDUS is to be commended for its continued efforts to file its Accountability Measures reports even in the absence of statements of Legislative Intent that would have provided specific instructions as to what data to include or highlight. And rather than choose to simply discard all vestiges of policies and procedures enacted by former Chancellor Shirvani, the Board has chosen to systematically review these policies and procedures in an effort to hold onto those that are deemed to be good or even best practices versus those that are not.

Finally, the Board has faced its responsibility to operate within the state’s open meeting law with appropriate training and changes in practice that will help the Board to operate within the law. More important, however, operating within the open meetings requirement will provide the foundation for avoiding the appearance of impropriety that is critical for establishing and maintaining the public’s trust.
B-2. Criterion Two, Core Component 2.C.

Criterion Two, Core Component 2.C. speaks directly to the independence of the governing board and requires that the governing board be “sufficiently autonomous to make decisions in the best interest of the institution to assure its integrity.” The sub-components underscore areas in which autonomy can be exhibited: (1) that deliberations reflect priorities to preserve and enhance the institution; (2) that the governing board considers the interests of varied stakeholders during deliberations; (3) that the governing board preserves its independence from undue influence; and (4) that the governing board delegates institutional management to the administration and oversight of academic matters to the faculty.

In making a judgment about the board’s compliance with Criterion Two Core Component 2.C., it is essential to recognize that the North Dakota State Board of Higher Education is responsible not for the best interests of a single institution, but rather for the best interests of eleven campuses and, more broadly, for the best interests of the state’s citizens. Moreover, for public institutions that receive substantial funding from state legislatures, the concept of “autonomy” needs to be interpreted within the context of a legitimate expectation on the part of the legislature for accountability in the expenditure of public funds.

The authority and autonomy of the North Dakota SBHE is established in Article VIII of the state’s constitution:

A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the … state educational institutions.

Thus, in contrast to other states, the North Dakota SBHE’s existence and authority is embedded in the constitution rather than in statute, and changes in the Board’s structure or authority require constitutional amendment. Evidence that demonstrates appropriate compliance in each area of focus includes:

- B-2 (1). Subcomponent 1 requires that the governing board’s deliberations reflect priorities to preserve and enhance “the institution.” Given the SBHE’s responsibilities for the North Dakota system as a whole, it is appropriate to consider compliance with Subcomponent 1 in relation to the Board’s commitment to preserving and enhancing the system as a whole. No evidence emerged during the visit that cast doubt on the Board’s commitment to preserving and enhancing the system. To the contrary, the team’s interview with the Board provided reassurance that the Board positions are filled with
dedicated volunteers, representing a diverse set of professional skills and geographic diversity, who may differ with each other on certain policies and directions, but who share a commitment to providing high quality education for the state’s students.

- B-2 (2 and 4). Documentation provided by the NDUS staff addressing Criterion Two Core Component 2.C. included not only citation of the relevant article of the constitution, but also a series of policies specifying the roles and responsibilities of Board officers, Board members, Board committees, and campus presidents. This documentation speaks to the consideration of perspectives of varied constituencies during processes of deliberation and to the delegation of responsibility thereby supporting Criterion Two, Core Component 2.C. and sub-components 2 and 4.

- B-2 (2 and 4). As noted previously in this report, improvements in patterns of communication and deliberative processes over the past year, provide additional credible evidence that the expectations of subcomponents 2 and 4 are currently met.

- B-2 (3). It became apparent during the visit that the essence of the concern about compliance with Criterion Two Core Component 2.C. pertained to subcomponent 3 and whether actions of the Legislature toward the Board could be construed as “undue influence.” As mentioned, for public universities the duly elected representatives of the citizenry have the right and responsibility to influence via legislation the operation of public universities. Each day the Education Commission of the States publishes a listing of new legislative actions pertaining both to K-12 and to higher education. Hardly a day goes by without a listing of one or another policy pertaining to higher education being proposed or enacted by legislatures across the country.

Consequently, from an accreditation perspective, a distinction needs to be drawn between, on the one hand, the expected influence of legislatures on public higher education boards and their universities in the area of policy-making and, on the other hand, “undue influence” that might prevail in other areas.

It should not be surprising that legislators would have a perspective on whether the Board is exercising its authority effectively and ensuring that state funding is being used to maximum benefit. The perspectives of others, such as Board members or college presidents, might differ from those of the legislators. The legislators’ perspectives could easily lead to interventions that
would not be preferred by the SBHE or by the campuses. However, it would be hard to characterize such differences in perspective and associated legislative policy initiatives as “undue influence.”

Nonetheless, the traditions of higher education in the United States and examples from around the country do point toward areas in which certain behaviors of legislators could be deemed as the exercise of “undue influence.” Examples can be found in the areas of admissions decisions, employment, and curriculum. A legislator who calls a public university college president and insists that a certain student be admitted, with an implicit threat to the university’s funding should admission be denied, can be deemed as exercising undue influence. Similarly, a legislator who overrides institutional hiring and dismissal policies and insists that a certain staff member be hired or fired, or else, has stepped beyond his or her proper role as representative of constituents. Finally, a legislator who usurps faculty prerogative to determine curriculum would analogously be exercising undue influence. In the present review, the visiting team found no evidence that the North Dakota Legislature has exercised undue influence on the SBHE. Accordingly, the team finds the SBHE to be in compliance with Core Component 2.C.

While the system of higher education governance in North Dakota may not be entirely unique, it is, in the experience of this review team, rare. The high profile and extremely interdependent nature of both the state Legislature and the SBHE demands a level of transparency and effectiveness of the highest order if both entities are to earn and maintain the levels of public trust needed to fulfill their missions.

The Higher Learning Commission does not accredit legislatures. However, with full respect for the authority and privileges of legislatures, the Commission does have the opportunity and responsibility to educate legislators about behaviors which compromise, or behaviors that might even appear to compromise, the functioning of publicly supported higher education institutions. Having such a conversation with North Dakota’s legislative leaders may be warranted in the present case and could prove to be beneficial to all concerned.

Team Determination on Criterion Two, Core Component 2.C.:

✓ Core Component is met
__ Core Component is met with concerns
__ Core Component is not met
Summary Statement on Criterion Two, Core Component 2.C.:

The question of what may or may not constitute undue influence by the North Dakota Legislature vis-à-vis the NDUS is an important one that has been considered and discussed by many over the system’s history. And while the team appreciates that there may be many examples of actions taken or threats made by the Legislature that have challenged the autonomy of the SBHE, the team also recognizes that this tension is not unique to North Dakota.

During a meeting with several elected officials, the team asked how the Legislature assessed the performance of the Board and the NDUS staff. There was not a clear answer beyond, “They shouldn’t do dumb things.” This statement was made in reference to a number of high profile events and scandals that have reflected badly on several of the system’s campuses, NDUS staff, the SBHE, and in the eyes of some observers, members of the Legislature as well. These legislators also expressed some frustration with the fact that the Board is indeed autonomous and that the only leverage held by the Legislature is financial. This exchange is important in that it reminded the team that while the focus of Criterion Two, Core Component 2.C. is the operational autonomy of the SBHE, North Dakota’s Legislature has a clear interest in ensuring that the actions of the SBHE and the NDUS do not impede its ability to fulfill its role on behalf of the citizens of North Dakota.

Despite the sometimes tense relationship between these two bodies, the team found no evidence that the Legislature clearly attempts to exercise undue influence on the SBHE. In the absence of such evidence, the team would like to remind members of the SBHE and the North Dakota Legislature of the state’s considerable assets with respect to its system of higher education—its faculty, staff, students, facilities, and growing financial resources—and to encourage each body to redouble their efforts to work together toward continuous improvement of the system.

B-3. Criterion Five, Core Component 5.B.

- B-3 (1 and 2). Criterion Five requires that accredited institutions have governance structures, including a governing board that promotes effective leadership. Given the population of the state of North Dakota and the number of state assisted universities, there is a single governing board for the eleven institutions; the SBHE. This basic structure has been in place for many years.

- B-3 (1 and 3). The SBHE is designated as the policy-setting and advocacy body and is composed of eight citizen members appointed from various
regions of the state, one voting student member and two advisory (non-voting) members, one representing faculty and one representing staff. The SBHE hires a Chancellor who oversees the staff of the NDUS that supports the Board in meeting the state and institutional governance requirements established by the state Legislature and accrediting bodies, such as the HLC.

• B-3 (1, 2, and 3). A review of the SBHE organizational chart provided during the visit documents that there is a direct reporting line from the institutional presidents to the board and a direct reporting line from the Chancellor to the board, as well as a line that connects the Chancellor to the board through the presidents. This reflects the fact that in certain situations the SBHE governs the presidents directly, on the advice and recommendations of the chancellor, and in other situations has delegated certain responsibilities to the chancellor authorizing the chancellor to work directly with the presidents. In addition, the SBHE has reserved for itself certain decisions, such as granting tenure. In those situations the chancellor advises the SBHE and the SBHE acts on the request. On paper, the organization of the governing board sets the stage to support effective leadership and support collaborative processes among the major players with responsibilities in institutional governance. The nature of the responsibilities associated with each of these players is being reviewed by the recently created Roles and Responsibilities Task Force. Also listed on the organizational chart are several individuals who are essential for helping assure that the board meets its legal and fiduciary responsibilities. These would be the Chief Auditor, who reports directly to the board, and the Director of Legal Services/Compliance and Director of Strategic Planning, who report to the Chancellor.

• B-3 (1, 2, and 3). A review of the approved minutes posted on the NDUS website document that the 2014 board meetings included institutional presidents and NDSU staff, unlike the minutes that accompanied the initial complaint. They further document that presidents are consulted as to where subsequent board meetings should be held, a practice that helps promote the Board’s understanding of the various institutions and the communities they serve, which had been discontinued when questions were raised about whether the practice violated the open meetings law. Additionally, the minutes document healthy discussions about how the Board should operate. The Chair of the Board and the Interim Chancellor believe that the Board should set goals and that the staff should work with the institutions to meet the goals. This plan of action is evidenced in how the yet-to-be-implemented *Pathways*
to Student Success plan is being revisited and discussed across the system by faculty, staff, and students. Their recommendations will be shared with the Chancellor’s Cabinet, which includes the Campus Presidents, and ultimately the SBHE. The workings of the Board and its members’ relationships to each other, the public and the institutional presidents are also the subject of ongoing discussions by the Board’s Roles and Responsibilities Task Force that includes several institutional presidents. Adding clarity to the various roles and responsibilities, including lines of communication, is a step towards mitigating instances such as those that led to the complaint.

• B-3 (3). The 2014 minutes also document first and second readings of proposed changes to policies; a practice that serves to assure that all interested parties have the opportunity to comment. The excessive use of the rule permitting the waiving of second readings had also been brought up in the complaint leading to the advisory visit. These minutes document second readings and final unanimous approval of important proposals to create several task-specific committees, such as the Academic and Student Affairs Committees, the Budget and Finance Committee, and the Audit Committee.

• B-3 (2). The minutes also confirmed that the Board was advised of Interim Chancellor Skogen’s plan to work with the Association of Governing Boards to enhance the training of new board members and his temporary hiring of Ms. Spynczynatyk as Director of Strategic Planning. One factor believed to have contributed to the filing of the complaint was the addition of four new board members coupled with an inadequate on-boarding process. Discussions with the Board and NDUS staff made clear this is a recognized deficiency that is being addressed.

Team Determination on Criterion Five, Core Component 5.B.:

✓ Core Component is met
___ Core Component is met with concerns
___ Core Component is not met

Summary Statement on Criterion Five, Core Component 5.B.:

Taken together, the minutes document what team members heard in discussions with Interim Chancellor Skogen and this staff that they were creating a disciplined, systematic approach to giving interested parties opportunities for input and dialog, along with a return to having policies that impact the institutions come from the institutional level, rather than only from the top-down; a stark contrast to operations
under the former Chancellor. It would be helpful to see these operations codified in
standard operating procedures that document how policies are implemented.
Although there is a link on the NDUS website titled “NDUS procedures”, the
documents in that link did not seem to represent standard operating procedures.
Having written operating procedures is also a way to promote seamless transitions
during leadership and staff changes.

NDUS meeting minutes also confirm what was learned from discussions with the
institutional presidents that the Board has returned to an operational style that is
inclusive and promotes collaboration between the Board and the individual
institutions and among the institutions themselves. The experience and leadership
style of the NDUS Interim Chancellor and staff, coupled with the Board’s current
focus on the issues at hand, appear to be mitigating the circumstances leading to
the complaint. It remains to be seen, however, if the positive momentum being
created by the current team will be maintained when a new Chancellor is hired.

Evidence that demonstrates that further organizational attention and
Commission follow-up are required relative to an area of focus

Criterion Five, Core Component D

The team began its work in this area of focus with two questions. First, is there a
plan in place to ensure continued performance improvement? Next, is performance
evaluated in a recursive manner that allows the institution to learn from its
experience? It posed those questions first about the NDUS and second about the
SBHE as a body. This narrative includes heavy quoting from board minutes as they
are the basis of much of the team’s conclusions. Evidence that demonstrates that
further organizational attention and Commission follow-up are required relative to
this area of focus includes:

• The NDUS Plans and Extensions

B-4 (1 and 2). The team sought to establish the status of strategic planning at
NDUS and encountered considerable confusion in its attempt to do so. The team
found that NDUS had a 2009-2012 strategic plan that had been extended by
Board action to June 30, 2013. Upon the Interim Chancellor’s observation that
the extended strategic plan had lapsed, the Board extended it another year to
June 30, 2014 (SBHE minutes 7/31/ 2013).

The process whereby the strategic plan was first extended in September 2012 is
the source of much consternation as it appears to have violated open-meetings
laws (SBHE minutes 9/26/12 re: private dinner) and suspended the usual
process of first and second readings (SBHE minutes 9/5/12) in order to rush
through The Three-Tier Plan endorsed by the sitting Chancellor (Chaffee letter to Manning, April 3, 2013).

The strategic plan has gone by several names in the past several years. From 2009 to 2012 it was called simply the Strategic Plan. Under the former Chancellor, it was called The Three-Tier Plan. The Three-Tier Plan was augmented in September 2012 with something called Pathways to Student Success. Though their names are different, the goals of the former Strategic Plan and the Pathways plan are essentially the same: “Accessibility; Affordability; Economic development through quality education, research, training and service; and Flexibility and Responsiveness.” (http://www.ndus.edu/board/strategic-plan/, retrieved 5/5/14).

Quoted in minutes from the September 26, 2012 board meeting, the SBHE Chair says Pathways must be implemented quickly in order “… inform and engage legislators and the public in Higher Education’s vision for the future. The Pathways to Student Success Plan is intended to be the foundation for that vision.” In those same minutes there was a “… title change from The Three-Tier Access Plan to the Pathways to Student Success Plan.” The Board then passed a resolution “… to approve the NDUS Pathways to Student Success Plan, including implementation timelines, as the NDUS Strategic Plan (emphasis added by team)....”

Based on the evidence, the team concludes that Pathways to Student Success is essentially an addition to the NDUS strategic plan that was extended until June 2014. Having established the SBHE’s intentions regarding the strategic plan, the team then sought to understand the status of that strategic plan.

At this writing, the Pathways program is on hold pending further review. The former Chancellor who championed the plan and whose job it was to direct it, was bought out of his contract. In interviews, the campus presidents reported they were not allowed to participate fully in the creation of the Pathways program. They told the team they could not figure out just what problems were to be solved with Pathways, or what measures were going to be used, and were confused by contradictions in the project about mission and funding. The implementation problems were significant enough that SBHE Chair Diederich informed Dr. Manning the Pathways plan has been paused to obtain “… further input from the Chancellor and presidents to refine both the goals and means to achieve those goals (Letter, March 3, 2014).

Thus, the team established that Pathways to Student Success was to become the NDUS strategic plan. Because Pathways is undergoing significant review, it
is not operational at this time. The Interim Chancellor and his staff are making good faith efforts to address the concerns surrounding the Pathways plan and inviting constituent input into goals and objectives. Still, given the fact that the previous strategic plan had to be extended twice and that the implementation of the Pathways plan has been delayed, there is ample evidence to conclude that plan development and implementation are important areas of concern for NDUS. This statement does not mean there will not be a plan—even a good one—at some point. The team is simply concerned that the SBHE has not yet produced a replacement to the 2009-2012 plan.

- Measures of Effectiveness

B-4 (1 and 2). In a system of recursive evaluation, measures are used to gauge progress on stated goals. Where there are poor results, an effective process uses the information to make improvements. The team asked about measures of system effectiveness and was directed to the legally mandated Annual Accountability Measures. The team then tried to match the goals and objectives of the Strategic Plan with the legally mandated Annual Accountability Measures. It does not appear the Measures were ever intended to report directly on progress with regard to the Strategic Plan, but were different measures of effectiveness the Legislature wanted to see.

As described elsewhere, these Annual Accountability Measures cover topics such as workforce training, research expenditures, retention and graduation rates, affordability of tuition and fees, income and operating rations, and so forth. The information is usually presented in graphical form as bar graphs, line graphs, and tables with accompanying descriptive texts and an executive summary. The Annual Accountability Measures may inform some of the strategic plan’s goals, but do not report on the stated objectives in the 2009-2013 Pathways to Student Success plan.

The more direct measure of progress on the Strategic Plan effectiveness is detailed in another report found on the SBHE website. There, each objective is listed and the corresponding results are cited in an adjacent column indicating percentage changes from the previous year. In the next column are directional arrows to indicate how far the results were from the target (http://www.ndus.edu/uploads/resources/3434/5-2012-strategic-plan-update.pdf, retrieved 5/5/14).

Having found measures of progress on stated goals in the Strategic Plan, the team sought to understand how those results were used. The team inspected SBHE minutes for a period of 22 months following the publication of the May
2012 Strategic Plan Progress Update (5/12 through 3/14). Though the System office collected and reported on two measures of effectiveness—the Annual Accountability Measures and the Strategic Plan Progress—the team cannot find evidence the Board looked at or referred to them to influence improvements.

In that same review of SBHE minutes the team found an area where the Board did take action based on an evaluative report. The State Auditor undertook a review of fees collected at North Dakota State University and at University of North Dakota finding both schools inappropriately used fee money. The SBHE filed a mandated written plan with concrete measures to correct the inappropriate use of fees noted by the Auditor (SBHE minutes 9/5/2012).

Thus, the SBHE publishes two sets of data but it is unclear how they are used in the process of making changes or improvements. One data set is the mandated Annual Accountability Measure. Though legally mandated, it does not measure the goals and objectives of the Strategic Plan. The other report is the Strategic Plan Progress Update that goes objective-by-objective in citing results. In the 22 months after the publication of that report, the SBHE does not appear to have reviewed these reports or used them to inform changes. The only evidence of the SBHE responding to an evaluative report came after the State Auditor found two of its universities had inappropriately used fee money. In that case, the SBHE was legally bound to file such an improvement plan.

So, the team found a strategic plan that has been extended and re-extended pending further review, legally mandated Annual Accountability Measures that do not connect to the Pathways plan, and a progress report specifically listing results of the strategic plan that the Board never considered. Therefore, at the time of its visit, the SBHE could not candidly offer for inspection either an in-force strategic plan or evidence the Board used valid measures of system performance to influence change.

The team recognizes that with the Pathways program the SBHE was trying to make improvements in the entire system. However, the team was not able to uncover any evidence that the published measures were reviewed or cited to inform discussion.

Having made this observation, the team is aware the current System staff—in office only a short time—is attempting to make positive changes. None of the criticism of the Pathways Plan or the use of reported evaluations can be laid on the current staff. Indeed, the Interim Chancellor grasped the significance of the situation and moved swiftly to install new staff in order to put the problems aright.
First, *Pathways* is undergoing a full review and constituents (e.g. campus presidents as well as their faculty, staff, and students) are being consulted on what its goals and objectives should be. This is a crucial action that was missing in the previous attempt to launch the project. The Interim Chancellor hired an expert in strategic planning who has begun consulting with a wide array of constituents to create a plan for the system. As the *Pathways* project comes online there will be new corresponding assessments reported in the Annual Accountability Measures. It might be more useful for the staff to update the Strategic Plan Annual Progress report instead. The format of that report is an objective-by-objective review of the strategic plan, whereas the Annual Accountability Measures do not comport to the *Pathways* goals.

The team concludes that NDUS does not now have a plan in place against which to evaluate performance. System-wide measures of effectiveness are collected and published but do not appear to be used by the Board to make decisions. The current administration has begun a significant effort to correct the situation. They have only just begun, however, and have not produced either an intact plan or accompanying measures. Thus the team could find no reliable process whereby the NDUS learns from its operational performance to make improvements.

- Board Performance and Evaluation

B-4 (1 and 2). The team also evaluated the governing board’s role in systematically evaluating itself. Does the Board develop and document evidence of its own performance? Does the Board learn from its operational experience and apply that learning to improve its own effectiveness? The team reviewed minutes for a period of 23 months to help answer these questions. The team found deficiencies in several areas, detailed below. As cited above, there are also nascent efforts to remedy these deficiencies.

There are no clear expectations of SBHE members aside from the general duties of the Board outlined in the Constitution. Effective boards generally have expectations of members for such things as attendance, committee service, participation in events, etc. Some boards ask their members to complete annual self-evaluations to remind them of their expectations and duties. Still other boards have committee chairs lead an evaluation process of each member. There are no such expectations, no evaluations, and no process whereby members can learn to be better at discharging their fiduciary duties.

There is no systematic orientation of Board members. In SBHE minutes of September 5, 2012, the new member orientation consisted of various staff members telling new board appointees what their offices do. There was no other
evidence of attempts to orient new Board members to their duties and responsibilities (Review of SBHE minutes from 9/2012 to 3/2014). Current Board members reported a variety of cursory explanations and experiences when they were appointed to the SBHE, but no formal orientation to their duties and expectations.

There is no system of ongoing training for Board members. A significant component in the Chaffee complaint was the way the Board ignored North Dakota’s open-meetings laws and suspended usual rules of order (Letter from Dr. Ellen Chaffee to Dr. Sylvia Manning 4/3/14). Given there is no comprehensive board orientation or training, it is not difficult to see how the Board could have violated open-meetings laws or allowed the usual consideration of first and second readings to be set aside in order to rush the Pathways proposal through. Perhaps the Board members were not aware of appropriate practices because they lacked a detailed orientation to their responsibilities.

There is also no system of evaluation for the Board. In its May 2012 Retreat, as it set goals for the future, “SBHE members agreed on these medium level priorities: SBHE self-evaluations, evaluations of president and Chancellor, and policy review” (emphasis added, SBHE Board Retreat minutes 5/15-16/12). In a review of 23 months of subsequent board meetings, the team found no evidence of the Board evaluating its own performance. One Board member ventured an argument to the team that if the North Dakota University System is doing well, then the Board must be doing well, and referred to the Annual Accountability Measures as evidence of success. The team does not accept this argument. As described elsewhere, these annual reports cover topics such as workforce training, research expenditures, retention and graduation rates, affordability of tuition and fees, income and operating rations, and so forth. While it is true the Annual Measures reflect on some aspects of the system, they do not contemplate the Board’s own performance. Moreover, there is no evidence in the minutes that the Board ever looked at those Measures to determine how their System was doing.

There have been five Chancellors in the past seven years. The last Chancellor was so controversial the Legislature urged the SBHE to terminate his contract in order to remove him from office. There was also a considerable amount of central staff turnover. With such management and staff turnover, it is reasonable to expect any board to take stock of the situation and consider its own policies, processes, and performance in order to prevent such disarray in the future. Indeed, minutes record a member warned of the deleterious effects turnover has on an organization (Reichert in SBHE minutes 3/21/13). She raised the same concern again in May saying turnover could not be ignored. She was joined in
that sentiment by another member who observed such turnover may indicate less than ideal circumstances and lamented the loss of institutional memory. Another member admonished his colleagues about “…the controversy surrounding North Dakota higher education and expressed the opinion that the Board has acted as if there were no problems. He encouraged serious discussion of issues facing the Board“ (Reichert, Hoffarth, and Hull in SBHE minutes 5/9/13). The Board did not conduct any such examination of the circumstances, policies, or its own performance that may have fostered the turnover despite its members’ warnings.

As would be expected, the Board exercised due diligence in vetting the firm that would conduct the search for the next Chancellor and provided the consultant with a set of desirable qualities the Board and the presidents thought candidates ought to have (SBHE minutes 6/20/13). In interviews with the team, campus presidents observed the Chancellor’s job to be an impossible one, with no clear goals to achieve and no systematic review of performance. While the following conclusion may be somewhat speculative on the team’s part, it appears that the Board may view its success as being synonymous with the success of the Chancellor. If this is true, then many of the System’s issues can be understood as problems with Chancellors who turned out to be a poor fit for the role as opposed to systemic weaknesses or failure in board leadership.

In addition to the team’s concern regarding the Board’s direct assessment of its own effectiveness and the effectiveness of the Chancellor, the minutes also record significant problems with evaluations of the campus presidents. Board policies require such evaluations be conducted, but they were mishandled. In the last few weeks of his term, the Board directed the embattled former Chancellor to perform reviews of the presidents. They did not go well. One president learned the results of his review in the newspaper. Board members “disclaimed the evaluations and the language used in them...describing the evaluations as not objective and lacking requisite dialogue” (SBHE minutes 6/20/13).

To its credit, the Board revisited the evaluations and directed the Interim Chancellor to complete the process. A month later the minutes reflect a negotiated settlement. “(The Chancellor) explained that he collaborated with presidents to complete the process, obtaining signed letters for accepted evaluations or writing new evaluations for presidents who disagreed with their prior evaluations“ (SBHE minutes 7/31/13).

The problem is not solved, however. The presidents told the team they had no clear performance goals to pursue. Neither have the presidents been evaluated
against agreed upon goals (Interviews). So, while the Board resolved the 2013 evaluations, the balky system of evaluation remains.

There are problems between the SBHE and state Legislature that may relate to the Board’s lack of self-awareness and insularity. Some members of the Board were quite vocal in lamenting the erosion of autonomy and authority of the SBHE. It is a Constitutional office and, they believe, should be granted wide berth in deciding matters in its purview. The members expressed deep frustration—offense, really—with what they consider meddling by legislators into higher education. That meddling comes in the form of reduced funding, mandatory accountability measures, and now even a referendum to altogether eliminate the SBHE from the North Dakota Constitution.

For their part, several legislators expressed to the team that the SBHE is a runaway board that is not responsible to anyone. “It is the fourth branch of government” and “the tail wagging the dog,” with presidents getting what they want without strong Board leadership. These legislators are frustrated by what they considered to be frequent embarrassing stories in the media. The only way to remove a Board member is by an impeachment conviction. Some of the legislators felt, therefore, the only influence that could be exerted on the SBHE’s actions is by mandating Annual Accountability Measures and through the funding process. Though the team met with only a subset of the Legislature, it is a fact that a majority in both houses passed the requirement for the Annual Accountability Measures and all funding bills. Likewise, it required a majority in both houses to put forth a referendum on eliminating the SBHE from the Constitution. Indeed the Constitutional amendment to eliminate the SBHE is the strongest possible message that a majority of the North Dakota Legislature insists on a change in the way the SBHE operates.

The frustrations between the SBHE and legislators seem to connect to the Board’s insularity. It is not unreasonable that legislators would scrutinize how the Board operates and insist on changes. As a Constitutional office, the Legislature, too, has duties and responsibilities. This statement does not in any way offer an opinion on the merits or correctness of the referendum effort, only that there is evident frustration with the way the SBHE has operated. And the Board is not unaware of these frustrations. Both the minutes and interviews demonstrated evidence that there are tensions between the SBHE and state Legislature.

The university system as a whole is effective and the legislators support it. The members who met with the team expressed strong and proud support for the colleges and universities. Students, they feel, are still getting a good education. It is the Board’s own effectiveness that is in question.
• Indicators of Change

B-4 (1 and 2). When the State Auditor in the February 2013 compliance audit suggested the “...University System Office make improvements with the university system’s strategic planning and measuring performance processes” Management responded, “We agree and will work to follow the recommendation.”

The work began at its June 2, 2013 meeting when a consultant with expertise in university systems “led a Board discussion on topics such as fiduciary duties; conflicts of interest; conducting Board meetings; the roles and responsibilities of Board members, the chancellor, institutional presidents, and NDUS staff; protocol for working with the chancellor, presidents, and staff; proper lines of communication; and communication with third parties.”

Upon her election, the current Board Chair observed that her main aspiration “…is to restore trust within the university system. She explained that this would involve more than the relationships between the Board and NDUS presidents, but also those between the Board and legislators, the Board and the greater community, and those among the Board members” (SBHE minutes 7/31/13). In furtherance of that aspiration, she outlined a set of goals for 2013-2014. Among them is the declaration that the Board will “… undertake a self-evaluation and governance education” (SBHE minutes 7/31/13). In the Board interview and referenced in minutes, the team learned that the Association of Governing Boards has been called on for consulting about governance.

Later that fall, the SBHE unanimously accepted the Interim Chancellor’s own set of six goals. Enumerated therein are: to implement and execute a NDUS communications plan; ensure the implementation of the Pathways to Student Success Plan after input from the Task Forces and presidents; re-institute a strategic planning process that will result in a consensus developed, system-wide update to the current strategic plan; and develop a strategic plan for the university system (SBHE minutes 11/2013). The Chancellor, in answer to a direct question, said the systems office will assist the Board in orientation and education.

In response to the turmoil experienced in the NDUS and to address the HLC inquiry, a joint Roles and Responsibilities Task Force was created by Board action (SBHE minutes 8/23/13). That task force will examine the duties, authority, and relationships of the presidents, Chancellor, and North Dakota University System office. The stated goals include setting a governance model, roles and
responsibilities, defining the CEO position, and identifying and clarifying authority and accountability.

As to faulty evaluation practices, the Interim Chancellor, at the Board’s direction, attempted to rectify the manner and results of the previous review of campus presidents (SBHE minutes 7/31/13). In that same meeting the Board chair observed “…presidential evaluation process involves the steps of establishing goals at the beginning of the year; submitting a self-analysis to the Chancellor; the Chancellor drafting an evaluation; and the possible reconciliation of any disagreements about the evaluation between the Chancellor and the presidents.”

It appears, therefore, a positive effort is recently underway to improve the understanding and agreements as to each constituent’s role in a system of shared governance and evaluation. It is not yet clear how the goal setting for evaluating the presidents is proceeding, but the team presumes those discussions will be tied to both the implementation of the Pathways plan and the Roles and Responsibilities Task Force.

Team Determination on Criterion Five, Core Component 5.D.:

- Core Component is met
- Core Component is met with concerns
- Core Component is not met

Summary Statement on Criterion Five, Core Component 5.D.:

Members of the team believe that the Interim Chancellor, his System staff, and the current board leadership are most sincere in trying to address the Board’s governance issues related to goal setting, self-evaluation, and accountability for improvement. There is frank recognition of the problems and the SBHE has published goals to bring about change.

Additionally, there is evidence that goal setting and self-evaluation are becoming a higher priority for the SBHE. At the time of the visit, however, these efforts had only just begun and were far from being implemented. The system staff has been in office for less than six months and is working very hard to revise and implement a strategic plan. The SBHE Chair is not yet halfway through the year when the goal of self-evaluation and training is to be achieved. The team recognizes, however, that there is only so much change that can be implemented in such a short period of time.
Therefore, at the time of the visit, the team finds that the SBHE minimally meets Criterion 5, Core Component D to the extent that recent SBHE and NDUS actions indicate a genuine desire to improve the Board’s and system’s performance. The team recommends appropriate HLC follow up and monitoring to ensure that current fledgling efforts toward continuous board and system improvements quickly become standard operating procedure for the SBHE.

Final Summary: The nature of this advisory review does not require the team to make specific recommendations with respect to its findings. And while the team’s finding that currently SBHE is minimally compliant with Criterion 5, Core Component D and the team’s concern about the efficacy of Measure 3 (see related report under separate cover) are significant issues, they are, in the professional opinion of this review team, and depending on the results of the November referendum, imminently solvable.

The team extends its thanks to everyone who assisted in the planning and execution of the site visit and offers its best wishes to everyone who will be involved in designing and delivering a best-in-class system of higher education for the citizens of North Dakota.