

North Dakota University System

Mid- Year Budget Status Report to the SBHE Budget and Finance Committee

For FY21 – Period Ending December 31, 2020

Policy 302.3

Campuses are required to report to the State Board of Higher Education Budget and Finance Committee on a mid-year basis, in December anytime one or more of the conditions noted below exist. If none of these conditions exists, campuses are not required to submit a report, but must notify the NDUS Office that none of these conditions exist.

- 1. Report a variance of (+/-) 5 percent or more is expected from original ANNUAL budget net tuition revenue estimates. Provide description of variance below – Report \$ and % amount of variance and # of students – Will variance continue Y/N? If yes, will variance continue into next fiscal year?**

No Campuses with variances of 5% or more.

- 2. Report a variance of (+/-) 5 percent or more is expected from original annual budget revenue estimates for total auxiliaries. Provide description of variance below. Report \$ and % amount of variance. Report variance of 5% (+/-) in resident hall occupancy rates (fall to fall) over the previous year that is expected and/or realized.**

BSC	-936,995/-12.8% Auxiliary revenue - Dining services are down and housing occupancy has dropped due to the pandemic. -7% Occupancy - Due to COVID pandemic lower number of students in housing.
DCB	-\$181,550/-18% - Auxiliary revenue decrease is due to fewer students living on campus. -17%- Occupancy - Single Rooms instead of multiple due to COVID. We have also set aside quarantine/isolation rooms.
DSU	+109,759/+13% Auxiliary revenue - Housing revenue is up due to an overall increase in students in dorms - which also relates the dining budget with more students on meal plans. -15% Occupancy – This decrease was due to DSU adding 70 beds by opening up 2 levels of Selke, overall number of students housed was higher. Due to COVID, more rooms were utilized as single rooms.
LRSC	-8% - Occupancy - Eliminated third beds in rooms due to COVID.
MaSU	-\$364,000/-14% Auxiliary revenue decrease - COVID impact on dining, bookstore, campus center and wellness center revenue. +8.0% - Occupancy increase due to additional students occupying suites and double rooms.

- MISU** -\$456,000; -13.0% Auxiliary revenue - There are fewer students living on campus due to the COVID-19 pandemic. Therefore, room and board revenue is significantly lower than budget.
- NDSU** -\$3,450,167; -6.95% Auxiliary revenue- Variance is due to continued pandemic effects resulting in less students on campus. Operating expenditure budgets are adjusted for the change in revenue.
- VCSU** -\$172,178/-6.1% Auxiliary revenue - COVID has impacted our auxiliaries. Our on-campus occupancy is down and our meal plans are down. Traffic to **the** bookstore and student center has been lower as fewer students on campus.
-10.5% Occupancy - Due to COVID, fewer students are staying on campus and choosing either to attend school remotely/distance or live off campus in an apartment.
- WSC** -\$290,100; -14.2% Auxiliaries; -14% Occupancy- Two apartment buildings (8 units) and one residence hall (16 beds) were taken offline for the purpose of housing potential COVID19 quarantined students. Additionally, six rooms in Frontier Hall were removed for COVID19 quarantine purposes. COVID19 also eliminated any potential Frontier Hall summer 2020 rent revenue. Combined, this will result in \$166,000 less housing revenue in FY21. Food Service revenue is down \$57,000; Conference Services has not generated revenue in FY21 due to the coronavirus pandemic and the guidance/restrictions set forth concerning social distancing and capacity limits.
- UND** -\$1,255,439/-11.5% Auxiliaries -Dining - Revenue variance is due to the restrictions that COVID-19 has had on our campus. With more classes being remote there was less students on campus. Since the start of the fall semester, we have closed two snack bars and one food cart due to lack of sales. Campus Catering saw a huge loss in revenue due to no events being held on the campus. With less students on the campus, we saw a decrease in beverage commissions and snack/laundry vending sales. Dining provides meals to the University Children Learning Center and with the restrictions within the Center, we provide less meals than we normally would.
-8.0% Occupancy - Due to COVID pandemic students were assigned to one student per room. While designed capacity was at 51%, assignable occupancy was near 100%. The number of students did see a decrease from previous year due to decrease in undergraduate students and continued decline in housing renewals.

3. Report a net position or fund variance deficit balance of \$100,000 or more (all campuses, except UND and NDSU) and \$250,000 or more at UND/NDSU that will be reportable at fiscal year-end. Provide description of deficit, explain the reason it happened and the

expected timeframe and plan for elimination of the deficit. Is deficit tracking according to plan.

BSC **Food Services:** (\$194,015) lost revenues due to COVID-19, plan to use CRRSSA(Coronavirus Response and Relief Supplemental Appropriations Act) funds to recover losses in FY21

MiSU **Scoreboard Advertising-Dome; Fund 22245** has a deficit net asset balance of \$123,729; 8 local companies have signed 6-year advertising contracts which range from \$8,000 to \$12,000 per year. These funds will be deposited in this fund to cover the purchase cost and installation of the scoreboard. The annual advertising revenue will continually reduce the fund net asset deficit each year.

June 30, 2015	Dec 31, 2015	June 30, 2016	Dec 31, 2016	June 30, 2017
(\$425,323)	(\$467,905)	(\$471,729)	(\$449,229)	(\$392,229)
Dec 31, 2017	June 30, 2018	Dec 31, 2019	Dec 31, 2020	
(\$367,229)	(\$310,229)	(\$208,229)	(\$123,729)	

UND and UND Medical School

21546, EERC Fiscal Year End Carryover (2,158,503)

June 30, 2013	June 30, 2014	June 30, 2015	June 30, 2016	June 30, 2017
(\$1,145,893)	(\$1,738,248)	(\$2,158,503)	(\$2,158,503)	(\$2,158,503)
Dec 31, 2017	June 30, 2018	Dec 31, 2019	Dec 31, 2020	
(\$2,158,503)	(\$2,158,503)	(\$1,814,590)	(\$1,429,590)	

22364, EERC Legal Costs. (903,885)

June 30, 2008	June 30, 2009	June 30, 2010	June 30, 2011	June 30, 2012
(\$1,937,385)	(\$1,753,238)	(\$1,551,701)	(\$1,356,000)	(\$1,153,847)
June 30, 2013	June 30, 2014	June 30, 2015	June 30, 2016	June 30, 2017
(\$945,875)	(\$945,615)	(\$915,150)	(\$904,340)	(\$903,885)
Dec 31, 2017	June 30, 2018	Dec 31, 2019	Dec 31, 2020	
(\$903,885)	(\$903,885)	(\$697,635)	(\$532,635)	

The EERC has a budget plan in place that includes a six-year deficit reduction payment plan that started in FY19. The six-year deficit reduction plan includes paying down both the legal costs and the deficit.

WSC **Bookstore:** (\$141,468) Correction plan includes reducing inventories and reduced spending.

NDSU **Roers Construction Legal Bills :** (\$507,482) Costs for claims arising out of the A. Glenn Hill construction project. \$474,657 deficiency request has been made to

the 2021-23 legislature. The remainder will be covered by NDSU appropriated funds.

NDSCS **Workforce Training** : (\$122,509) NDSCS has identified and implemented a plan which included a restructure of personnel and operating expenditures, as well as focusing on increased revenues. The net asset position has shown slight improvement. We will continue to monitor and review the plan at 6/30/2021 and make further adjustments if necessary.

4. Annual bond reserve requirements.

All campuses will meet bond reserve requirements.

5. If campus is a party to a legal action, provide the following for each:

- a. **Brief summary statement of the nature of the claim – (with first report)**
- b. **Summary statement concerning likelihood and estimate of loss – (with first report)**
- c. **Current status – (until action is closed)**

DSU

- a) Brief summary statement of the nature of the claim: DSU is party to a Title IX claim filed with the OCR(Office for Civil Rights).
- b) Summary statement concerning likelihood and estimate of loss: Unknown amount at this time.
- c) Current Status: Working on a resolution agreement.

UND

- a) Brief summary statement of the nature of the claim:
Padraic Power v. UND School of Law
Plaintiff is a former law applicant who claims discrimination based on disability. The Office of Civil Rights at the Department of Education has investigated, concluding that there was no discrimination. A lawsuit was filed in US District Court of North Dakota (3:16-cv-00038-DLH-ARS). Subsequently appealed to the 8th Circuit. Plaintiff's last opportunity to revive the case would have been a petition to the US Supreme Court, which was due in late 2020. Assistant Attorneys General James Wiese and Jim Nicolai are handling for UND.
- b) Summary statement concerning likelihood and estimate of loss: Likelihood of loss is remote.
- c) Current Status: Petition for rehearing denied by 8th Circuit.

UND

- a) Brief summary statement of the nature of the claim:
Breanna Berndsen et al. v. The North Dakota University System

Class action suit served and filed in the District Court of North Dakota (3:18 – cv-000125-DLH-ARS) on June 12, 2018 included eleven former UND women’s hockey players alleging Title IX violation of discrimination and seeking reinstatement of the women’s hockey program. The University filed its motion to dismiss Plaintiffs’ complaint on August 24, 2018. An Order of Dismissal was granted on June 19, 2019, and the case was appealed to the 8th Circuit. Oral arguments were heard in October, 2020.

Attorneys for the plaintiffs are Dan Siegel, 475 14th Street, Suite 500, Oakland California 94612 and Attorney Sharon L. Van Dyck, 310 4th Avenue South, Suite 5010, Minneapolis, Minnesota 55415.

Matthew Sagsveen and Daniel Cohen are representing NDUS.

- b) Summary statement concerning likelihood and estimate of loss: The likelihood of loss is remote.
- c) Current Status: On appeal to 8th Circuit.

UND

- a) Brief summary statement of the nature of the claim:
Hans Bjellum et al. v. Dr. Cyril Tabe; Dr. Matthew Heberer; and Sanford Clinic North

Pending medical malpractice case served in the District Court of North Dakota in which Plaintiff suffered complications following the placement of a pigtail catheter; which in turn resulted in additional medical care and treatment. Jodi Bjellum passed away on July 28, 2017. Dr. Matthew Heberer is named as a Defendant. Dr. Heberer is a UND surgery resident.

- b) Summary statement concerning likelihood and estimate of loss: The likelihood of loss is remote.
The Summons and Complaint were delivered to the School of Medicine and Health Sciences on June 14, 2018. Answer was served and filed alleging Dr. Heberer was, at all times acting as an Agent or employee of the UND SMHS. To date, Plaintiff has not engaged in Discovery. Dr. Heberer was dismissed without prejudice in February 2020. The University’s professional liability carrier is providing the defense and Risk Management (Vicki Ableidinger) is coordinating. Randi Hanson from Camrud, Maddock, Olson and Larson is providing the defense. Attorney for Plaintiff is Nathan Severson of Severson, Wogsland & Liebl, 4627 44th Avenue South, Suite 108, Fargo, ND, 58104
- c) Current Status: Motion for Summary Judgement has been Filed

UND

- a) Brief summary statement of the nature of the claim:

Duane Barth v. Sanford Clinic North, Sanford Health, Sanford Medical Center Fargo, State of North Dakota (The University of North Dakota) and JOHN AND JANE DOES 1 to 5.

Pending medical malpractice claim served and filed on September 12, 2018 arising out of Plaintiff's treatment by UND employee Dr. Sticca and medical resident Crystal Cardwell at Sanford Medical Center circa September 1, 2008. Cardwell documented that Plaintiff had a CT scan with findings of renal cell carcinoma in plaintiff's right kidney. However, Plaintiff was ultimately not advised by Dr. Sticca or Cardwell of the renal cell carcinoma diagnosis. No additional right renal mass workup was performed, nor was Plaintiff advised of urological consultation or of any further care and treatment of the kidney. Numerous healthcare providers continued to treat Plaintiff over the course of the next ten years, each failing to provide further notation or notification to Plaintiff of the presence of the renal cell carcinoma. On March 7, 2018 Urologist Dr. Bates evaluated Plaintiff and recommended the removal of the right kidney. Plaintiff is seeking monetary relief in the amount of \$50,000.00 for economic damages. Plaintiff is also seeking monetary relief in the amount of \$50,000.00 for non-economic damages. Lastly, Plaintiff is seeking judgment of interest, including judgment of pre-judgment interest, costs and disbursements incurred as well as further relief that may be just and proper. A Third Amended Complaint was filed and answered in October, 2020. Randi Hanson from Camrud, Maddock, Olson and Larson was assigned to defend the case through State Risk Management.

b) Summary statement concerning likelihood and estimate of loss:

The likelihood of loss is remote.

c) Current Status: A motion for summary judgment has been filed and is scheduled to be heard on March 2, 2021.

UND

a) Brief summary statement of the nature of the claim:

Anderson, Paula and Michael v. Sanford Clinic North et al

12/2/2020 Pending medical malpractice claim. Co-defendant is Erin Follman, MD, a UND surgical resident. Assigned via ND Risk Management to Randi Hanson at Carmud Law Firm. Plaintiff claims irreversible paralysis from waist down secondary to aortic aneurysm repair, in which lumbar artery was allegedly occluded. Case assigned to Judge McCullough in East Central Judicial District Court/Cass County. A separate answer was filed on behalf of Dr. Follman.

b) Summary statement concerning likelihood and estimate of loss:

Not yet determined.

d) Current Status: Answer to complaint has been filed.

6. Campus anticipates the need for deficiency appropriation.

NDSU On January 16, 2018 NDSU was served with a complaint for claims arising out of the A. Glenn Hill Center construction project. NDSU was authorized to: (1) retain outside counsel and defend the lawsuit including initiating 3rd-party actions; and (2) establish a deficiency fund to pay the costs of the litigation in the expectation that NDSU would seek reimbursement of such costs through a deficiency appropriation in a future legislative session. The litigation ultimately involved nine different parties and settled prior to trial pursuant to a Settlement Agreement and Release, dated November 7, 2019, which was approved by the SBHE. NDSU is seeking a deficiency appropriation to cover the litigation costs in the amount of \$474,657 in the 2021-23 legislative session.

NDSU NDSU entered into a Settlement Agreement and Release, dated November 7, 2019, with the approval of the SBHE, which ended the construction litigation pertaining to the A. Glenn Hill Center. Pursuant to the Settlement Agreement, NDSU paid the plaintiff \$38,609.38 which was the amount remaining of the Legislative authorization for the project. In addition, NDSU is seeking Legislative authorization and appropriation for an additional payment to the plaintiff of \$125,000. NDSU could not make this payment without Legislative authorization pursuant to NDCC 54-27-12.

7. Other events having a significant impact on campus revenues or expenses.

NDSU **Student enrollment**
Student enrollment trends and demographics indicate a regional and nation-wide decrease in the number of college age students. This will affect NDSU's student enrollment. We continue to evaluate and monitor tuition revenues, adjusting spending levels as necessary.

NDSU NDSU continues to evaluate and respond to the short-term and long-term financial impacts to the campus due to the prolonged pandemic.

WSC 1/31/2021 WSC is seeing a 62% reduction in TrainND revenues due to COVID19 and the oil impact in the Northwest Region of North Dakota. At 1/31/2020 TrainND revenues were \$2,111,685 and at 1/31/2021 they are \$814,772 . There have been considerable cost cutting measures put in place to operate TrainND Northwest at a breakeven as of 12/31/2020. WSC athletics revenue has been impacted by COVID19 due to the cancellation of sporting events and ticket sales. There has been a 34% reduction in total revenues that were primarily from season and single game ticket sales. There will be no season or single game tickets sales in FY2021.

- UND** UND closely monitors enrollment trends and any potential financial issues due to pandemic.
- BSC** BSC will continue to evaluate and monitor declining enrollment and issues due to pandemic.