

North Dakota University System

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

For FY24 – Period Ending December 31, 2023

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?

- BSC** \$935,832/6.2% Tuition revenue increased due to enrollment growth, noting a 12-year high in enrollment numbers. Students increased by 115 from budget. It is expected that the variance will continue into the next fiscal year.
- VCSU** \$372,325/5.75% Tuition revenue increased due to enrollment growth, noting record high enrollment from fall 2023 (AY2024). Students head count increased by 96 between fall 2022 and fall 2023. It is not known if the variance will continue into the next fiscal year.

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** +5.0% Occupancy increases due to increasing enrollment. BSC has converted some housing to triple rooms to meet student housing needs.
- DSU** +\$240,419/+9.5% Housing contract revenues increased due to increased occupancy.
+8.3% Occupancy increases due to increasing enrollment.
- DCB** +6.0% Occupancy has increased due to increasing athletic student enrollments.
- LRSC** +162,556/+15.0 Housing contracts revenues increased due to increased occupancy.
+10.0 Occupancy has increased due partly to student athlete enrollment with the addition of hockey. One percent of the increases is related to some housing being removed from inventory.
- VCSU** +\$380,877/+14.75% The number of food contracts has increased.
- WSC** -\$524,157/-15.42% The room scholarship contracts for Fall 2023 have not been bill or paid by the WSC Foundation as of December 2023. Once the WSC Foundation has been billed and paid, WSC will have a variance of +\$44,331.21.
- MiSU** +5.0% Occupancy has increased due to the number of athletic and international students.

MaSU +\$629,802/+25.0% Increase in the number of housing contracts and bookstore sales.
+9.5% Occupancy increased due to enforcing house exception rules.

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.

UND **Debt Repayment & Legal Costs (EERC):** -\$278,130; 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 debt. This should be fully paid by the end of FY2024.

WSC **Athletics – Hockey:** -\$221,190; A fundraising campaign has been initiated for the Hockey Program as well as the entire Athletic Department. This fundraising campaign is being coordinated by both the Athletic Department and the President's Office. The hockey program is reducing its travel budget by eliminating two high-cost trips per year and will begin to charge a player participation fee to athletes. The program is anticipated to breakeven this year, with the focus of reducing the existing debt in total by end of FY2029.

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)**

UND a) Brief summary statement of the nature of the claim:
Englund, James v Altru et. al.
Wrongful death of James O. Englund claim. Notice of claim received via certified mail and email on August 16, 2022. Plaintiff claims that a surgical procedure performed on James O. Englund February 8, 2022 at Altru Health in Grand Forks, ND was below the acceptable standard of care, therefore a proximate cause in the wrongful death of James O. Englund. Parties named are Dr. Michael W. Johnson with North Dakota Surgical Residents Dr. Reid Bartholomew and Dr. Johnathan Sticca assisting with the procedure. Further investigation is required however to determine compensation and relief requests. The current compensation demanded by the estate of James Englund will be in excess of five hundred thousand dollars (\$500,000). Attorney for Plaintiff is Timothy O'Keefe of O'Keefe, O'Brien, Lyson LTD, 720 Main Avenue., Fargo, ND 58103.

b) Summary statement concerning likelihood and estimate of loss: Within COPIC coverage range.

c) Current Status: No litigation initiated at this time.

UND

- a) *Brief summary statement of the nature of the claim:*
Ward, Renee v. University of North Dakota School of Medicine
Renee Ward notice of claim form emailed on October 28, 2022. Ms. Ward alleges on August 3, 2022, an IUD was incorrectly inserted into her bladder instead of her uterus at the UND Center for Family Medicine. She is currently seeking compensation in the amount of no less than \$50,000.00 for severe pain, emotional and mental physical pain and loss of income. Employees named are Dr. Gina Kapadia and Dr. Renu Mahli. COPIC letters to Renu Malhi, M.D. and UND School of Medicine dated 9-23-22 received.
- b) *Summary statement concerning likelihood and estimate of loss:* Notice of claim requests, no less than \$50,000.
- c) *Current Status:* No formal litigation initiated at this time.

UND

- a) *Brief summary statement of the nature of the claim:*
Becker, Emily et al. v. The North Dakota University System
Class action suit served and filed in the US District Court of North Dakota (3:22-cv-00100) on June 16, 2022 including four potential members of the Women's ice hockey team at the University of North Dakota. Plaintiffs claiming Title IX violation demonstrated by defendants, due to failure to determine athletic interests and abilities of female athletes, before eliminating women's hockey program. Plaintiff(s) seeking reinstatement of women's hockey program at the University of North Dakota. Plaintiffs listed as Emily Becker, Calli Forsberg, Morgan Stenseth, Maya Tellmann. Attorney for Plaintiff(s) Daniel Siegel, Siegel & Yee, 475 14th Street, suite 500, Oakland, CA Attorney for Defendant Daniel Cohen, Nelson Mullins, 201 17Th St. NW Suite 1700, Atlanta, GA 30363. Appeal filed 2/6/23 with US Court of Appeals Eighth Circuit. (0:2023cv01213)
- b) *Summary statement concerning likelihood and estimate of loss:* No monetary request.
- c) *Current Status:* Motion hearing scheduled in the 8th circuit Court on February 13, 2024.

UND

- a) *Brief summary statement of the nature of the claim:*
Rush, Auer v. UND Center for Family Medicine Minot- Trinity
January 27th, 2023 a notice of representation and preservation filed by attorney Nathan Severson of SWL Attorneys for medical malpractice/wrongful death claim in the interest of Rush Auer, JA and HA. This notice names Dr. Michael Holland, Dr. Jeffrey Sather, Dr. Henry Chan and Trinity Hospitals/Trinity Health. On December 21, 2022, Rush Auer passed away which they allege was due to the negligence in the medical treatment received on December 19-20, 2022. This notice also alleges that Dr. Courtney Black and Trinity improperly released Rush Auer from the morgue without an autopsy being performed, attempting to cover up any negligence. It was determined that UND does not have any pertinent records and it is Trinity Health Minot's responsibility to ensure proper preservation of records and to respond. Attorney for plaintiff is Nathan Severson of SWL Attorneys, 4627 44th Ave. S. Ste 108, Fargo, ND 58104.
- b) *Summary statement concerning likelihood and estimate of loss:* Unsure at this time as no formal litigation has been initiated.
- c) *Current Status:* No formal litigation initiated at this time.

- UND**
- a) *Brief summary statement of the nature of the claim:*
Ms. Elaine McAnulty natural mother of Sarah Ladd, deceased
 Notice of claim to ND Risk Management via North Dakota State Forensic Examiner's Office. An autopsy was performed by the Department of Forensic Examiner under contract with the NDHHS. Notice of claim was presented by Ms. McAnulty arising out of any damages she may have incurred over the State of North Dakota's handling of the body and organs of Sarah Ladd after Ms. Ladd's death.
 - b) *Summary statement concerning likelihood and estimate of loss:* Unknown.
 - c) *Current Status:* Notice of claim filed.
- UND**
- a) *Brief summary statement of the nature of the claim:*
Mortimer, Rylie v. UND
 A notice of claim was signed on 7-13-2023 and sent to the State OMB. A copy was provided to UND. The claim alleges that on 05/14/2023, Rylie Mortimer was on UND property, near the ND Museum of Art Building. Rylie was on some landscaping rocks when a pipe began discharging hot water. Rylie's claim indicates that she went to the Altru Express Clinic because the skin on her left ankle started to blister. Claim requests no less than \$10,000. Plaintiff's attorney is Timothy O'Keefe, 720 Main Avenue, Fargo, ND.
 - b) *Summary statement concerning likelihood and estimate of loss:* Notice of claim requests no less than \$10,000.
 - c) *Current Status:* Notice of claim filed but no litigation initiated at this time.
- UND**
- a) *Brief summary statement of the nature of the claim:*
Riedenberger, Stacey v. Dr. Samuel Bloomsburg (UND medical resident) and Sanford Fargo
 A notice of claim was signed on 6-22-2023 and provided to State OMB. A copy was provided to UND 's General Counsel and UND School of Medicine and Health Sciences. The claim alleges that Stacey Riedenberger sustained a right below knee amputation due to medical neglect. Plaintiff represented by Leslie Johnson Aldrich, Attorney at Law, Johnson Hicks Law Office, P.C. 1018 First Avenue North, Fargo, ND 58102, 701-234-0009.
 - b) *Summary statement concerning likelihood and estimate of loss:* Within COPIC coverage range.
 - c) *Current Status:* Notice of claim filed but not litigation initiated at this time.

Closed Legal Actions:

UND

- a) *Brief summary statement of the nature of the claim:*
Rajapakse, Pushpe and Rajapakse, Sarisi v Sanford Clinic et al.
North Dakota District Court, East Central Judicial District. Medical Malpractice complaint served on UND on November 23, 2022. Summons and Complaint East Central Judicial District. One of the defendants is the University of North Dakota School of Medicine, and another is Dr. Yesha Shulka, a resident physician participating in UND's family medicine program. Plaintiffs are Pushpe Rajapakse and Sarasi Rajapakse, parents of Yara Rajapakse. Allegations are that their baby was born with an umbilical cord wrapped around its neck who suffered hypoxic ischemic brain injury at childbirth and is disabled. Primary claim is negligence in monitoring and addressing concerning changes in the baby's fetal heart rate (FHR) patterns in the couple hours before delivery. Summons and Complaint states Count I, Medical Negligence, Count II Informed Consent, Economic Damages, Non-Economic Damages. Plaintiffs ask for judgement against Defendants together with costs, interest and such other and further relief as the Court deems just and appropriate under the circumstances. UND has started the process of SAAG Appointment. Randi Hanson has been assigned to represent the School of Medicine (claim #143133) and Dr. Shulka (# 153544). Randall Hanson of Camrud, Maddock, Olson & Larson Ltd., 401 Demers Ave #500, Grand Forks, ND 58201. Attorneys for Plaintiffs are Kathleen Flynn Peterson and Colin F Peterson of Ciresi Conlin LLP, 225 South Sixth Street, Suite 4600, Minneapolis, MN 55702.
- b) *Summary statement concerning likelihood and estimate of loss:* Within COPIC coverage range.
- c) *Current Status:* Case dismissed without prejudice against the State of North Dakota, the School of Medicine and Dr. Shukla on 1-29-2024.

UND

- a) *Brief summary statement of the nature of the claim:*
Axelsson, Fiona v. University of North Dakota School of Medicine and Health Sciences et al
North Dakota District Court case No: 3:22-cv-00056-PDW-ARS. Complaint served and filed by Fiona Axelsson on 4/4/22 regarding alleged complaint(s) of sexual discrimination and disability. While Dr. Fiona Axelsson was a medical resident under contract with UND residency program, claims she was harassed by program director resulting in mental health issues in which plaintiff states she was retaliated against based on disability. Plaintiff is seeking jury trial in an effort to remedy damages allegedly caused by defendants. Motion to dismiss served and filed on May 26, 2022.
- b) *Summary statement concerning likelihood and estimate of loss:* The likelihood of loss is remote.
- c) *Current Status:* Case Dismissed with prejudice on 4-12-23.

DSU

- a) *Brief summary statement of the nature of the claim:* DSU is party to a Title IX claim filed with the Office for Civil Rights (OCR).
- b) *Summary statement concerning likelihood and estimate of loss:* No monetary settlement required beyond capital improvements to the campus to provide equal accommodations to women athletes at DSU.
- c) *Current Status:* Softball complex was completed and notice was provided to OCR at the end of 2023.

6. Campus anticipates the need for deficiency appropriation.

No campuses with anticipated deficiency appropriation.

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

NDSU	NDSU continues to monitor enrollment and retention trends, adjusting spending levels as necessary.
BSC	Fall 2024 BSC's Polytechnic building will be ready for occupancy and Summer 2024, BSC will be bonding and begin construction of the Multipurpose Athletic facility.
WSC	In Spring/Summer 2024, WSC is starting on a Turf Project as well as our new Medical Arts building. We are anticipating the new building will allow more programs to be created and increase revenues.
ALL	The SBHE is studying the HE funding formula. This study intends to review current metrics and practices with consideration of how to promote and address ND workforce needs. Recommendations from this study may impact recognition of campus revenues and costs associated with the formula.