

2021 SENATE APPROPRIATIONS

SB 2030

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2030
1/21/2021
Senate Appropriations Committee

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Senator Holmberg opened the hearing at 8:29 am.

Senators Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman were present.

Discussion Topics:

- An appropriation of \$9.65 M from the general fund for the higher education Challenge Grant program.
- Endowments, Funding earnings, Student scholarships

Rep. Mark Sanford, District 17 introduced the bill and submitted testimony #2116.

David Krebsbach, Director of Finance, NDUS testified in favor and submitted #2031.

Dr. Doug Darling, President, Lake Region State College testified in favor and submitted testimony # 2020.

Dr. Polly Peterson, President, University of Jamestown testified and submitted neutral testimony #2072.

Rick Hedberg, Vice President, Minot State University Development Foundation – testified in favor and submitted testimony #2079 & #2078.

Additional written testimony: Testimony in favor #1900, #1979. And neutral testimony #2074.

Senator Holmberg closed the hearing at 9:12 am.

Rose Laning, Committee Clerk

Higher Education Challenge Matching Grants

Institution	Challenge Grant Amount
BSC	950,000
LRSC	350,000
WSC	350,000
UND	1,700,000
UND School of Law	250,000
NDSU	1,700,000
NDSCS	950,000
DSU	700,000
MaSU	700,000
MiSU	950,000
VCSU	700,000
DCB	350,000
Total	9,650,000



Senate Bill 2030

Senate Appropriations Committee

January 21, 2021

David Krebsbach, Director of Finance

701.328.4111 | david.krebsbach@ndus.edu

Good morning Chair Holmberg and Committee Members. My name is David Krebsbach, and I am here today to testify in support of Senate Bill 2030. The bill appropriates \$9.65 million from the general fund for the higher education Challenge Grant program authorized in N.D.C.C. 15-10-48 through 15-10-49.

Established by the 2013 Legislative Assembly, the Challenge Grant program was designed to stimulate the spirit of philanthropy at the state's colleges and universities. Funds can be used for scholarships, endowed chairs, technology, research, and educational infrastructure, although the main focus of the program has been student scholarships. Every \$1 in state funding must be matched with \$2 in eligible, private donations.

The \$9.65 million appropriation, which is equivalent to the 2019-21 level, would be allocated to institutions based on current statute, as follows:

Institution	Amount
NDSU & UND	\$1.7 million
MISU, BSC & NDSCS	\$950,000
DSU, MaSU, & VCSU	\$700,000
DCB, LRSC & WSC	\$350,000
UND School of Law	\$250,000

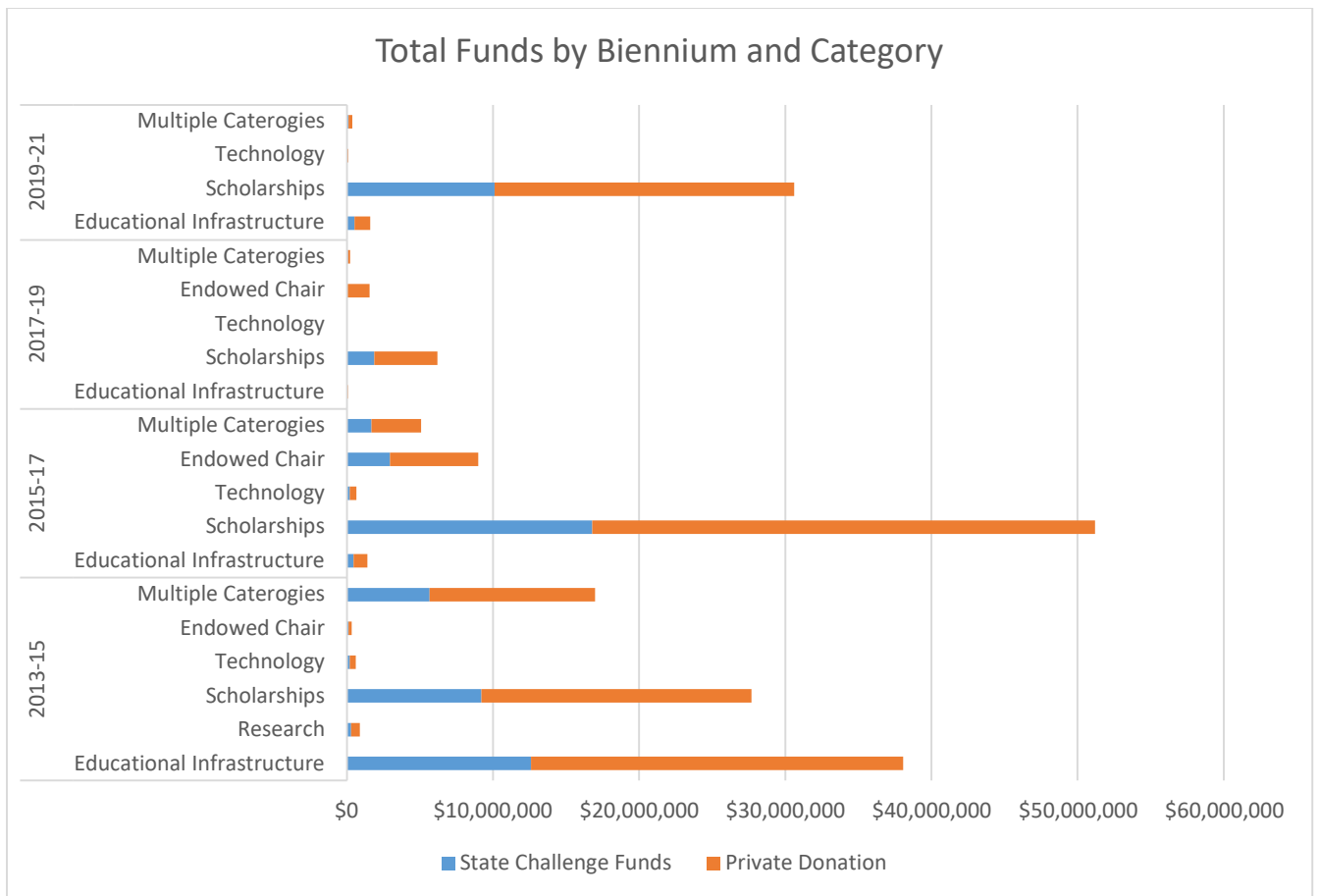
As of January 26th, 2021, all 2019-21 Challenge Grant funds will have been matched & awarded to the institutions. All but two institutions utilized their full allocation. Unmatched dollars are pooled and awarded to other institutions. The \$9.65 million in state funds was matched by \$22.02 million in private donations - for total of \$31.67 million. Student scholarships accounted for 91.6% of the total, and 2.6% was used for endowed chairs. The remaining 5.8% was utilized for technology, research, and educational infrastructure.

Since program inception, \$61.8 million in state dollars has been leveraged with private donations for a total investment of \$192.7 million. Of the total, \$115.7 million, or 60%, was dedicated to increasing student scholarships. \$21.4 was used to expand educational infrastructure, while the remaining dollars were directed to endowed chairs, technology, and research.

Several university foundation representatives are here to provide evidence as to the success of this program at their institutions.

I ask for a **Do Pass on SB2030** and am available to answer your questions.

Thank you.



Chairman Holmberg and members of the committee, for the record, my name is Doug Darling and I have the honor of serving as President of Lake Region State College. I am here to testify in support of SB2030. The HE Challenge Grants have been incredibly helpful for both the Community College foundation and our campus. It has provide an invaluable incentive for private giving. The first biennium 2013-15 – Challenge grant funds were available our foundation raised eight times more funds than they ever had in a single campaign. All told in the four campaigns we raised \$4,851,875 in private funds matched by \$2,425,937 for a grand total of \$7,277,813. Scholarships were \$4.75 million of this with nearly 3,000,000 permanently endowed. The increased number of scholarships we have been able to offer has had an impact on student lives. See two examples below. I would urge you to fund the Challenge grant at least the current level. The \$9 million turns into \$27 with the private funds (\$20 million turns into \$60 million).



Jakenda, LRSC grad from McHenry, ND.

I came from a small school with a graduating class of 10. Lake Region State College made the transition simple because of the family environment here.

During my time here at LRSC, I have been involved in volleyball, maintaining my role as the Phi Theta Kappa Co-President, a student employee in the foundation office, and the study abroad program. Thanks to scholarships, I have been given opportunities I never imagined.



Emily, LRSC grad from Devils Lake.

While at LRSC Emily was active in theater, DECA, Royal Ambassadors, CRU and music.

It didn't take long for me to realize that scholarships aren't free money. They are an investment; a sacrifice; someone else's stake in our education. They are a donor's way of supporting and guiding us -- a way of saying "Hey, I believe in you and want to see each of you succeed and live out your dreams."

Thank you for your exceptionally generous donations and thank you for believing in us.

North Dakota Senate Appropriations Committee
Chairman – Senator Ray Holmberg
January 21, 2020

Testimony

By: Dr. Polly Peterson, President

University of Jamestown

Email: ppeterso@uj.edu

Phone: 701-252-3467 ext. 5619

Senate Bill 2030

Chairman Holmberg and members of the Senate Appropriations Committee my name is Dr. Polly Peterson, President of the University of Jamestown.

I am speaking today neither in favor nor in opposition to SB 2030, but rather to make a simple request: to place an amendment on this bill that adds the foundations of private, North Dakota-based universities as eligible applicants for this program.

The Matching Grant Program began in 2013 and was designed to advance academics at North Dakota institutions of higher learning by matching state dollars with private dollars. It was heralded as a great public-private partnership. The only problem was it left out the private institutions of higher learning.

Let me be clear—we (meaning the University of Jamestown and the University of Mary) jointly asked to be included at that time. The message we received was this: “Wait this round. Come back the next round and it will be easier to be included.” So, we have consistently

communicated our desire to be included in the intervening years, and still, we are waiting.

Why do we want to be included? It is very simple from my perspective. Let me give you one example that drives this home. I had a donor who was very close to providing a substantial gift to the University of Jamestown's foundation. That donor ultimately did not make that gift. The reason: giving that same gift to a public university's foundation leveraged his gift further. The University of Jamestown lost that donation.

We are not on equal footing and as we seek to raise funds from a highly overlapping and interconnected donor base, the University of Jamestown finds itself at a distinct disadvantage.

I have been in communication with Jerome Richter at the University of Mary, and he said they likewise support the request I am making to this committee.

We are asking you to add an amendment to this bill that includes the private universities in this state. This challenge grant program has been marketed as a partnership between the private and public sector. It is good for higher education in North Dakota. We see no reason why the private institution's students should be excluded.

The Matching Grants statute specifically supports the funding of scholarships, thereby eliminating any question regarding the eligibility of private university participation in this program as determined by the Attorney General in September 2005 (opinion 2005-L-24). Therefore, transfers of the Matching Grant funds to a foundation, for the purpose of providing scholarships to private university students are in fact

constitutional and provide a path for private university participation in this program.

The private universities do not receive state funding, so we are here to advocate for our students. We believe funding for higher education in North Dakota should focus on funding students who are residents of North Dakota, and who attend a North Dakota college.

The University of Jamestown has 1200 students in 44 majors, 3 masters and 1 doctoral program. Our retention of students in the state after graduation exceeds 70%. The University of Jamestown has approximately 250 employees and an economic impact in excess of \$80m.

Our students are an integral part of our communities. Between both the University of Jamestown and the University of Mary, our students volunteer over 30,000 hours of service at 200 sites annually.

Students in both communities are helping to meet the labor force needs of our businesses while they are in college and upon graduation. Mary's Leadership Academy and the University of Jamestown's Character in Leadership program have consistently retained students in North Dakota after graduation and both have a long history of graduating talented nurses who are serving in both rural and regional healthcare facilities in our state. Our schools are doing our part to contribute to our economy and our workforce; all with very little state assistance to our students.

Including private university students in the Matching Grant Program is a way to truly make this a public-private partnership. We respectfully request you consider our amendment.

Thank You Mr. Chairman, I would be happy to address any questions you or the committee may have.

January 21, 2021, ND Senate Appropriations Committee

SB 2030: Higher Education Challenge Grant

Testimony by Rick Hedberg, Minot State University Development Foundation

Mr. Chairman and members of the Committee, my name is Rick Hedberg and I'm VP for Advancement and Executive Director of the Minot State University Development Foundation. Thank you for allowing me to speak in support of SB 2030 and the ND Higher Education Challenge Grant program.

At the Minot State University Development Foundation, we have seen, first hand, the benefit of the state matching grant program. I can speak on behalf of our institution in saying that the challenge grant program is one of the top initiatives that has come out of our legislative assembly in the last decade. There really is no argument of this point on our campus and I'd like to share with you some statistics to support this claim.

I believe you have a 4 page handout in front of you. The first slide is titled "North Dakota Challenge Grant Dollars" and it breaks down the private dollars that were raised by our foundation and the state matching funds that were allocated through the challenge grant since the inception of the program. As you can see the matching dollars from the state aren't exactly at 50% in two of these rounds. That is due to pooled funding that is available at the end of each funding cycle. We exceeded our allotted challenge grant dollars and submitted additional funds for a match, but only a portion of the funds were available. Just a clarifying point, these aren't the total funds we raised but merely the funds that were submitted for a potential match. The interesting point of this chart is where these private donations originate. Nearly 2/3 of the dollars are coming from donors that live out of state. I believe this point is significant, as it attracts external dollars from supporters beyond our state back here, thereby making a positive impact within North Dakota.

I recently read a report that highlighted an interesting situation with baby boomers and retirees. The report stated that baby boomers are set to pass a mind-boggling \$68 trillion to their children over the next 25 years. If we can continue to provide a "carrot" like the ND Challenge Grant, our state can see a small portion of that \$68 trillion.

The next slide highlights our total support by all donors for the calendar year. As you can see, 2020 was a record year of giving at Minot State. Much of this success can be directly attributed to the challenge grant. I will be very honest in saying that our lowest fundraising total on this slide came in 2018, a year in which we had a smallest amount of challenge grant funds available at \$200,000. I really don't think this is a coincidence.

The next slide highlights the growth in endowed funds that support scholarships, academic programs and endowed faculty positions. As you can see, we've had very good growth in the number of endowments. The 2021 total is the fiscal year 2021. We've already added 21 new endowments in the first half of the fiscal year. Just a reminder that these endowments are perpetual funds. We don't touch the principal of these endowments. They will be providing support to our students and our campus for decades and generations to come, long after all of us are gone.

The final slide highlights our development foundation total assets. Again, I don't think it's a coincidence that our foundation assets have grown considerably since the inception of the challenge grant. If this

program is allowed to continue and adequately funded, I believe you will see this growth in assets continue. The more these assets grow, the more students we are able to support, keeping our institutions affordable and limiting student debt.

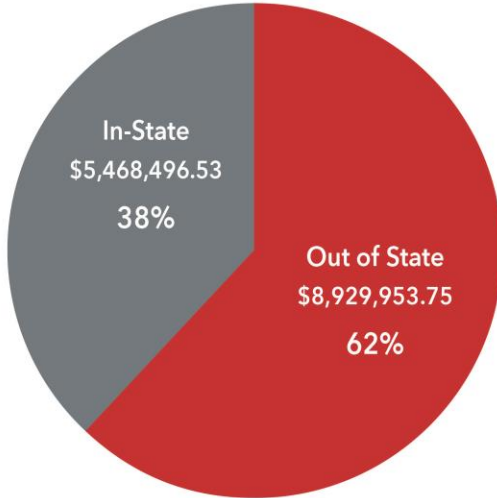
I would ask you to consider increasing the dollars allocated to this program. In fact, if I could be so bold, I would ask you to consider increasing the allocation to Minot State . The current biennium allowed for \$950,000 in matching funds to Minot State. If this number were doubled, to say \$2 million, we could certainly put those funds to work to attract even more external funds, exhaust the allocation and assist even more students long into the future. You won't be disappointed in the long-term results of such a decision. I would also ask you to allow some flexibility in use of the matching funds to allow matches for things such as classroom enhancements and academic equipment purchases, in addition to the scholarship match.

Private giving is more important than ever—especially when state revenues are challenged. This program encourages external support for academic programs, scholarships and endowed faculty positions to make our colleges and universities affordable to all students.

Thank you for your time and consideration.



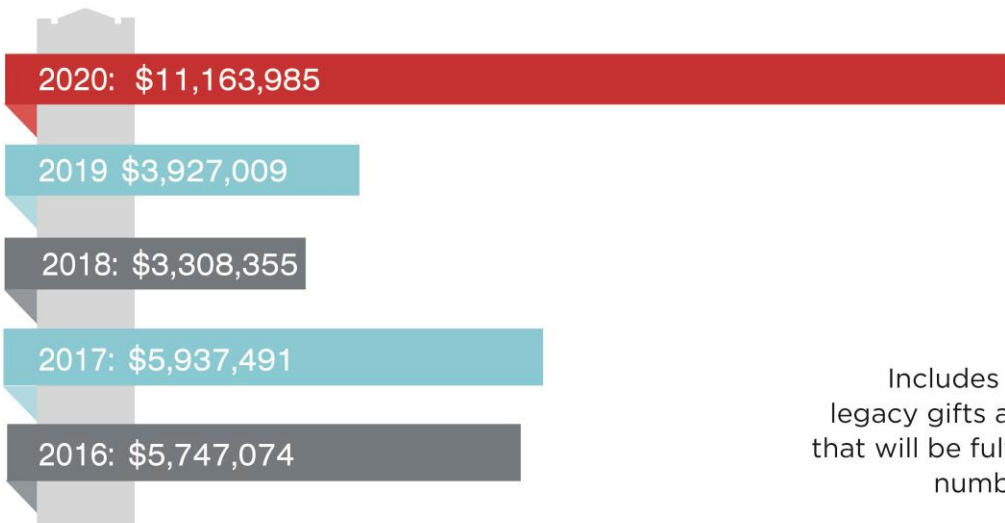
North Dakota Challenge Grant Dollars Out of State/In-State Dollars



	State Dollars Allocated through Challenge Grant	Private Dollars
FY 2013-15	\$1,508,855.73	\$3,285,178.05
FY 2015-17	\$1,658,167.23	\$3,781,315.55
FY 2017-19	\$228,049.04	\$4,333,019.24
FY 2020-21	\$950,000.00	\$2,998,937.28
Totals	\$4,345,072.00	\$14,398,450.12

Total Private Donations	In State dollars	Out of State dollars
\$14,398,450.12	\$5,468,496.53	\$8,929,953.75

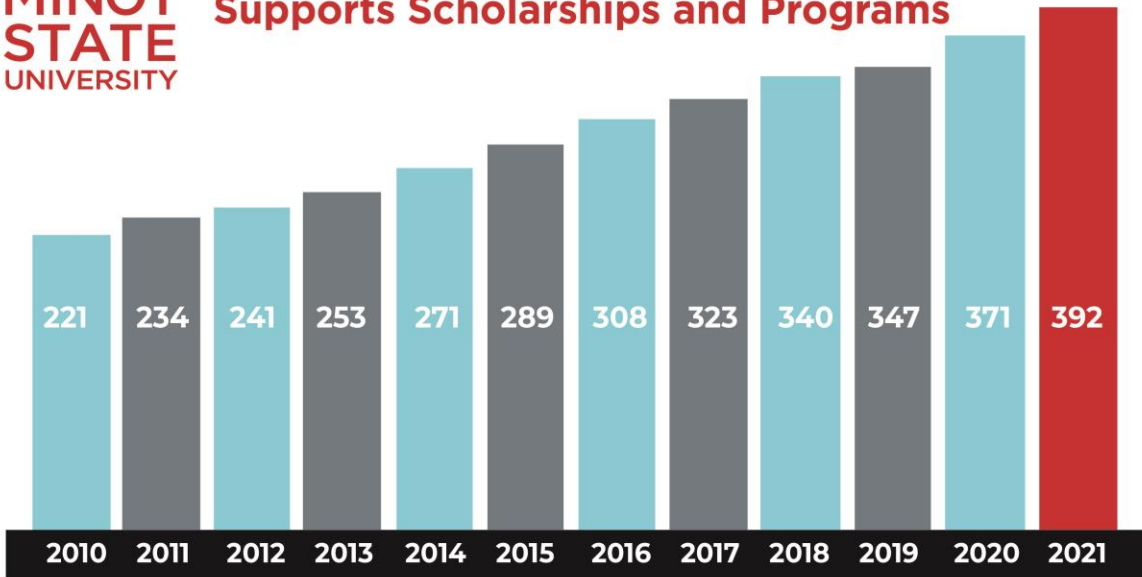
Total Support By All Donors – Calendar Year



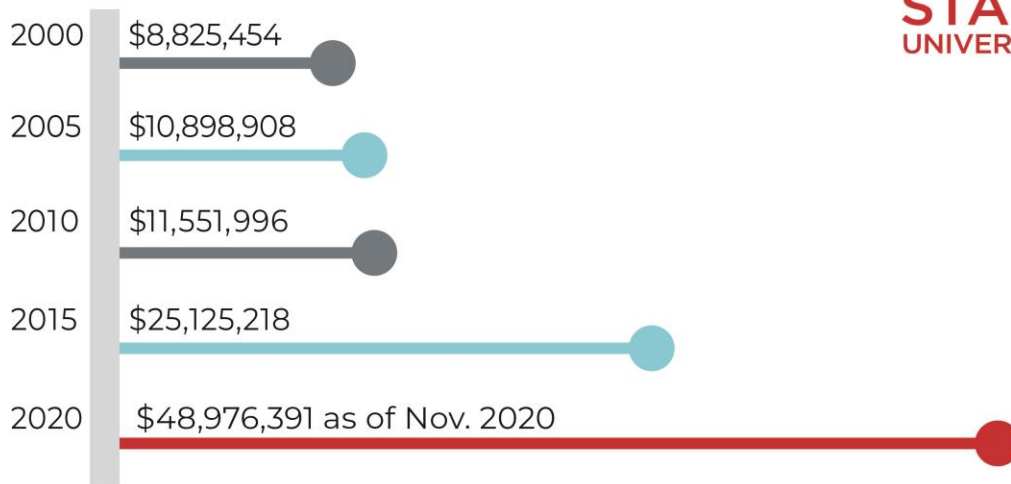
Includes direct gifts, legacy gifts and pledges that will be fulfilled over a number of years.



Fiscal year 2021 – Growth of Endowed Funds Supports Scholarships and Programs



Development Foundation Total Assets



**Comments to the North Dakota Senate Appropriations Committee
Senator Ray Holmberg, Chair**

**Submitted by DeAnna Carlson Zink, CEO of the University of North Dakota
Alumni Association and Foundation**

Submitted January 21, 2021

Chairman Holmberg and members of the Committee, thank you for allowing me to submit testimony regarding the North Dakota Challenge Fund. It has been a profoundly successful program and I ask that the Legislature continue funding the program at the highest level possible and providing flexibility as to how those funds are used.

I want to thank each member of the North Dakota Legislature for supporting this initiative in the past. The benefits have been far-reaching—every college and university has been able to directly impact students earning degrees that set them up for lifelong success.

The North Dakota Higher Education Challenge Fund is an investment in the future of North Dakota and the nation. With this public/private partnership, our donors are teaming with the state to inspire a world of change. Because many of the gifts are put into endowments, the Challenge Fund is not only benefiting current students, but will continue to shape public higher education in the state into the future.

Since the inception of the challenge fund in 2013, we at the UND Alumni Association and Foundation have utilized our entire \$19 million allocation from the state with \$38 million in gifts and commitments. Two out of every three gifts to the program came from donors outside the state who wanted to invest in higher education in the great state of North Dakota.

Since the North Dakota Challenge Fund began, 467 gifts to UND have funded 230 total projects including 183 endowed scholarship funds. That is an incredible impact on thousands of UND students; leaders in action who are making a difference in the state, country, and world.

At the University of North Dakota, we have benefited by focusing on the University's strategic priorities and college-based initiatives—especially scholarships and academic programs. We have leveraged the challenge grant with our donors from all over the country. The incentive of an immediate 50 percent return on their investment has been very appealing and motivating. We have multiple examples of donors who have given thanks to this program and, in some cases, have given more than they originally intended once they learned of this public/private partnership. Our development officers have donors now asking us about the program because they want to “time” their gift to take advantage of this fantastic partnership. Ask any fundraiser; it's not often you get donors offering to give you money before you've even asked them to give!

You all should be applauded for the success this initiative has been on all fronts. It has helped motivate donors and been a tipping point for them to give back. I thank you for that.

As you know, Gov. Burgum recommended \$20 million for this program, while SB2020 has the funding at \$9.65 million. I urge you to fund the program at the highest level possible and provide flexibility. I strongly believe if we don't receive full funding, we will leave philanthropic dollars on the table. As the University of North Dakota strives to build its reputation as a leader in innovative education, private giving is more important than ever – especially when state revenues are more challenged. It is vitally important to have initiatives like this that support academic programs, endowed faculty positions, and scholarships to make colleges and universities accessible to students from every walk of life.

Thank you again for allowing me to express my views. Thank you also for your continued support of this valuable program.

DeAnna Carlson Zink
Chief Executive Officer
University of North Dakota Alumni Association & Foundation
deannac@undfoundation.org
701.740.4682

January 21, 2021



THE CAMPAIGN FOR
NORTH DAKOTA
STATE UNIVERSITY

January 20, 2021

TO: ND Senate Appropriations
FROM: John R. Glover, President/CEO

RE: Written Testimony in Support of SB2030

Dear Chairman Holmberg and Members of the Senate Appropriations Committee,

I'm writing to express our enthusiastic support for SB2030, a bill to provide funding of the North Dakota Challenge Grant Program for the 11 institutions in the North Dakota University System.

The North Dakota State University Foundation is the philanthropic arm of NDSU, with a mission of building enduring relationships that maximize advocacy and philanthropy to support the university.

Today, philanthropy and building external relationships is a critical part of the university. And I know that all 11 of our system institutions would be in very different places were it not for alumni and community support for their missions.

In testimony you've heard this week from all 11 colleges and universities, everyone talked about the value of partnerships and leveraging each other to do good for our students, communities, work force and livelihoods.

In the 2013, this legislative body was sold on the idea of funding a program that partners with philanthropists who care deeply about higher education in the state. You challenged us to leverage \$.50 of the state's money with \$1.00 of a private donor's money to create scholarships and educational impact.

What happened? Donors called us!

In the fundraising business, it doesn't usually happen that way. Really ... when was the last time you were willing to pick up the phone when a student from your alma mater was calling you, or when the development officer from your favorite charity was on the line?

Our benefactors love the North Dakota Challenge Grant Program, and they are lining up once again, with hopes that this legislative body will offer up as many dollars as possible to make a difference for our students and faculty. We often receive questions from donors about the level of support the state provides our universities today, and they are most interested in finding ways to leverage their own dollars with yours from the state.

What impact has this program had through the NDSU Foundation?

- 1) Since 2013, the Foundation's endowment has increased in value more than 142%, from \$118M to \$285M,
- 2) Since 2013, the amount of funds expended for student and faculty purposes (from endowment and expendable funds) has increased 285%, from \$3.3M to \$9.4M annually, and
- 3) Nearly 400 households and businesses have taken advantage of the matching funds, giving more than \$37M to match nearly \$18.65M NDSU has received through the Challenge Grant program.

You challenged us, and we responded. Challenge us once again, and we will do our part. Most importantly, we will do our part to educate our state's next generation of workers, leaders, thinkers and influencers, and to support the university's research centers of excellence through faculty investments.

Thank you for supporting this program in the past, and we are grateful for your consideration again this legislative session.

Regards,

A handwritten signature in black ink, appearing to read 'John R. Glover', with a long horizontal flourish extending to the right.

John R. Glover
President/CEO

**North Dakota Senate Appropriations Committee
Chairman – Senator Ray Holmberg
January 21, 2020**

Testimony

**By: Jerome Richter
Executive Vice President & Chief of Staff
University of Mary**

Email: jjrichter@umary.edu

Phone: 701-355-8072

Senate Bill 2030

Chairman Holmberg and members of the Senate Appropriations Committee my name is Jerome Richter, Executive Vice President & Chief of Staff at the University of Mary.

I understand that Dr. Polly Peterson, President of the University of Jamestown, is testifying about our two universities being included as eligible applicants for the matching grant program this appropriation is aimed at. The University of Mary joins in that request, and for the same reasons she addresses in her testimony.

The University of Mary has over 3,700 students in 54 majors, 15 masters and 4 doctoral programs. Mary has 546 employees and an annual economic impact in the community of \$209.6m. Our students add thousands of hours of volunteerism to this region and the state. Our programs are designed to meet the workforce needs of our entire state. We exist to provide our students with a top-notch education and build them into servant leaders.

Please consider an amendment on this bill that adds the foundations of private, North Dakota-based universities as eligible applicants for the matching grant program. Thank you.

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2030
2/17/2021
Senate Appropriations Committee

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Senator Holmberg opened the committee work at 9:12 a.m.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

Senator Krebsbach presented amendment LC 21.0144.01002 (#6852) and moved its adoption.

Senator Poolman second.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	Y	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call Vote – 14-0-0. Motion carried.

Senator Wanzek presented amendment LC 21.0144.01001 (#6851) to further amend SB 2030.

Senator Erbele second.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	N	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	N	<i>Senator Oehlke</i>	N
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	N
<i>Senator Bekkedahl</i>	Y	<i>Senator Rust</i>	N
<i>Senator Davison</i>	N	<i>Senator Sorvaag</i>	N
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	N
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	N

Roll Call Vote – 5-9-0. Motion failed.

Senator Krebsbach moved DO PASS as AMENDED on SB 2030.
Senator Heckaman second.

Senators		Senators	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	Y	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call Vote – 14-0-0. Motion carried.

Senator Heckaman will carry the bill.

Senator Holmberg closed the committee work at 10:18 a.m.

Rose Laning, Committee Clerk

February 16, 2021

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2030

Page 1, line 2, after "program" insert "; and to amend and reenact subdivision c of subsection 1 of section 15-10-48 and subdivision c of subsection 1 of section 15-10-49 of the North Dakota Century Code, relating to matching grants for the advancement of academics"

Page 1, line 5, replace "\$9,650,000" with "\$20,000,000"

Page 1, after line 9, insert:

"SECTION 2. AMENDMENT. Subdivision c of subsection 1 of section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

- c. The board may award up to ~~one million seven~~three million five hundred thousand dollars in matching grants to each institution.

SECTION 3. AMENDMENT. Subdivision c of subsection 1 of section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

- c. The board may award up to:
 - (1) ~~Nine hundred fifty thousand~~Two million dollars each to Bismarck state college, Minot state university, and the North Dakota state college of science;
 - (2) ~~Seven~~One million five hundred thousand dollars each to Dickinson state university, Mayville state university, and Valley City state university; and
 - (3) ~~Three~~Seven hundred fifty thousand dollars each to Dakota college at Bottineau, Lake Region state college, and Williston state college."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment increases the appropriation for the higher education challenge matching grant program to \$20 million from the general fund and adjusts the amounts each institution is eligible to receive.

February 1, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2030

Page 1, line 1, after the first "to" insert "amend and reenact section 15-10-49 of the North Dakota Century Code, relating to matching grants for institutions of higher education; and to"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

15-10-49. Advancement of academics - Matching grants - Two-year and four-year institutions of higher education.

1. a. Subject to legislative appropriations, each biennium during the period beginning July first of each odd-numbered year and ending December thirty-first of each even-numbered year, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of:
 - (1) 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, Valley City state university, and Williston state college for projects dedicated exclusively to the advancement of academics; and
 - (2) University of Jamestown and university of Mary for projects dedicated exclusively to student scholarships.
- b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least twenty-five thousand dollars in cash or monetary pledges for a qualifying project; and
 - (2) The project has been approved by the grant review committee established in section 15-10-51.
- c. The board may award up to:
 - (1) Nine hundred fifty thousand dollars each to Bismarck state college, Minot state university, and the North Dakota state college of science;
 - (2) Seven hundred thousand dollars each to Dickinson state university, Mayville state university, and Valley City state university; and
 - (3) Three hundred fifty thousand dollars each to Dakota college at Bottineau, university of Jamestown, Lake Region state college, university of Mary, and Williston state college.

2. a. If any available dollars have not been awarded by the board before January first of each odd-numbered year, in accordance with subsection 1, any institution listed in paragraph 1 of subdivision a of subsection 1 may apply for an additional matching grant.
 - b. An application submitted under this subsection must meet the same criteria as an original application.
 - c. The board shall consider each application submitted under this subsection in chronological order.
 - d. If the remaining dollars are insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.
3. The state board of higher education shall retain up to one-quarter of one percent of any grant awarded under this section to assist with administrative expenses incurred in the grant review process."

Page 1, line 5, replace "\$9,650,000" with "\$10,350,000"

Page 1, line 7, after "for" insert "student scholarships and"

Page 1, line 7, remove "under the control of the"

Page 1, line 8, replace "board" with "of higher education"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment expands eligibility for the higher education challenge matching grant program to the University of Jamestown and the University of Mary. The University of Jamestown and the University of Mary would each be eligible to receive up to \$350,000 in matching grants for student scholarships. This amendment also increases the total appropriation for the higher education challenge matching grant program for the 2021-23 biennium from \$9,650,000 to \$10,350,000 from the general fund.

REPORT OF STANDING COMMITTEE

SB 2030: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2030 was placed on the Sixth order on the calendar.

Page 1, line 2, after "program" insert "; and to amend and reenact subdivision c of subsection 1 of section 15-10-48 and subdivision c of subsection 1 of section 15-10-49 of the North Dakota Century Code, relating to matching grants for the advancement of academics"

Page 1, line 5, replace "\$9,650,000" with "\$20,000,000"

Page 1, after line 9, insert:

"SECTION 2. AMENDMENT. Subdivision c of subsection 1 of section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

- c. The board may award up to ~~one million seven~~three million five hundred thousand dollars in matching grants to each institution.

SECTION 3. AMENDMENT. Subdivision c of subsection 1 of section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

- c. The board may award up to:
 - (1) ~~Nine hundred fifty thousand~~Two million dollars each to Bismarck state college, Minot state university, and the North Dakota state college of science;
 - (2) ~~Seven~~One million five hundred thousand dollars each to Dickinson state university, Mayville state university, and Valley City state university; and
 - (3) ~~Three~~Seven hundred fifty thousand dollars each to Dakota college at Bottineau, Lake Region state college, and Williston state college."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment increases the appropriation for the higher education challenge matching grant program to \$20 million from the general fund and adjusts the amounts each institution is eligible to receive.

February 16, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2030

Page 1, line 2, after "program" insert "; and to amend and reenact subdivision c of subsection 1 of section 15-10-48 and subdivision c of subsection 1 of section 15-10-49 of the North Dakota Century Code, relating to matching grants for the advancement of academics"

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Page 1, after line 9, insert:

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 - (2) ~~Seven~~One million five hundred thousand dollars each to Dickinson state university, Mayville state university, and Valley City state university; and
 - (3) ~~Three~~Seven hundred fifty thousand dollars each to Dakota college at Bottineau, Lake Region state college, and Williston state college."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment increases the appropriation for the higher education challenge matching grant program to \$20 million from the general fund and adjusts the amounts each institution is eligible to receive.

February 1, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2030

Page 1, line 1, after the first "to" insert "amend and reenact section 15-10-49 of the North Dakota Century Code, relating to matching grants for institutions of higher education; and to"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

15-10-49. Advancement of academics - Matching grants - Two-year and four-year institutions of higher education.

1. a. Subject to legislative appropriations, each biennium during the period beginning July first of each odd-numbered year and ending December thirty-first of each even-numbered year, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of:
 - (1) 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, Valley City state university, and Williston state college for projects dedicated exclusively to the advancement of academics; and
 - (2) University of Jamestown and university of Mary for projects dedicated exclusively to student scholarships.
- b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least twenty-five thousand dollars in cash or monetary pledges for a qualifying project; and
 - (2) The project has been approved by the grant review committee established in section 15-10-51.
- c. The board may award up to:
 - (1) Nine hundred fifty thousand dollars each to Bismarck state college, Minot state university, and the North Dakota state college of science;
 - (2) Seven hundred thousand dollars each to Dickinson state university, Mayville state university, and Valley City state university; and
 - (3) Three hundred fifty thousand dollars each to Dakota college at Bottineau, university of Jamestown, Lake Region state college, university of Mary, and Williston state college.

2. a. If any available dollars have not been awarded by the board before January first of each odd-numbered year, in accordance with subsection 1, any institution listed in paragraph 1 of subdivision a of subsection 1 may apply for an additional matching grant.
 - b. An application submitted under this subsection must meet the same criteria as an original application.
 - c. The board shall consider each application submitted under this subsection in chronological order.
 - d. If the remaining dollars are insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.
3. The state board of higher education shall retain up to one-quarter of one percent of any grant awarded under this section to assist with administrative expenses incurred in the grant review process."

Page 1, line 5, replace "\$9,650,000" with "\$10,350,000"

Page 1, line 7, after "for" insert "student scholarships and"

Page 1, line 7, remove "under the control of the"

Page 1, line 8, replace "board" with "of higher education"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment expands eligibility for the higher education challenge matching grant program to the University of Jamestown and the University of Mary. The University of Jamestown and the University of Mary would each be eligible to receive up to \$350,000 in matching grants for student scholarships. This amendment also increases the total appropriation for the higher education challenge matching grant program for the 2021-23 biennium from \$9,650,000 to \$10,350,000 from the general fund.

2021 HOUSE APPROPRIATIONS

SB 2030

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division Prairie Room, State Capitol

SB 2030
3/15/2021

House Appropriations Committee - Education and Environment

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Vice Chairman Jim Schmidt called the meeting to order at 9:00 a.m.

Representative	Present	Absent
Chairman Monson	P	
Vice Chairman Schmidt	P	
Representative Martinson	P	
Representative Nathe	P	
Representative Sanford	P	
Representative Schatz	P	
Representative Boe	P	

Discussion Topics:

- Challenge Grant Program overview
- Abortion amendment
- Planned Parenthood
- Section 2 and section 5

Lisa Johnson (9:03 a.m.) testified in opposition. Testimony #9119

Senator Myrdal (9:10 a.m.) testified in favor. Testimony #9209

Nick Archuleta (9:16 a.m.) testified in favor. Testimony #9099

Rick Hedberg (9:17 a.m.) testified in favor. Testimony #9070 and #9071

Liz Legerski (9:22 a.m.) testified in opposition. Testimony #9049

Gracie R. Lian (9:26 a.m.) testified in favor. Testimony #9096 and #9095

DeAnna Carlson Zink (9:32 a.m.) testified in opposition. Testimony #9009

Joshua Wynne (9:38 a.m.) testified in favor. Testimony #9055

Polly Peterson (9:45 a.m.) testified in favor. Testimony #9064

Dr. Dean Bresciani (9:50 a.m.) testified in opposition. Testimony #9041

Mark Hagerott (10:02 a.m.) testified in favor.

Additional written testimony: #9079, #9000, #8994, #8957

Vice Chairman Jim Schmidt adjourned the meeting at 10:10 a.m.

Klarissa Pudwill, Committee Clerk



Engrossed Senate Bill 2030

House Appropriations Committee -
Education & Environment Division

March 15, 2021

Lisa A. Johnson

701.328.4143 | lisa.a.johnson@ndus.edu

Chair Monson and members of the Committee. My name is Lisa Johnson and I serve as the Vice Chancellor for Academic and Student Affairs for the North Dakota University System. I am here today to testify in support of the Challenge Grant program, but in opposition to Engrossed Senate Bill 2030 as it stands before you. The bill currently appropriates \$21.5 million from the general fund for the higher education Challenge Grant program authorized in N.D.C.C. 15-10-48 through 15-10-49; however, the engrossed bill attaches conditions to the matching funds which would largely eliminate the NDUS from receiving the appropriated funds.

The NDUS and its 11 institutions strongly support the Challenge Grant program, which was established by the 2013 Legislative Assembly to stimulate the spirit of philanthropy at the state's public colleges and universities. Funds can be used for scholarships, endowed chairs, technology, research, and educational infrastructure, although the main focus of the program has been student scholarships. Every \$1 in state funding must be matched with \$2 of eligible, private donations.

Since the program's inception, \$61.8 million in state dollars has been leveraged with private donations for a total investment of \$192.7 million. Of this total, \$115.7 million, or 60%, was dedicated to increasing student scholarships. \$21.4 was used to expand educational infrastructure, while the remaining dollars were directed to endowed chairs, technology, and research.

While the NDUS supports the portions of the bill that allocate \$20 million to the NDUS's public colleges and universities, Sections 2 and 5 of SB 2030 potentially render every NDUS college and university ineligible to participate in the Challenge Grant program. These sections are intended to deter institutions from entanglements with persons or entities that provide or promote abortions. However, the language added to the Challenge Grant in Sections 2 and 5 is both unclear and overbroad: "sponsoring, partnering with, applying for grants with, or providing a subaward" could exclude institutions for unwarranted reasons. Specifically, every institution in the NDUS has relationships with medical institutions or providers which, read broadly, could lead to a violation of this provision. Even if institutions were able to separate themselves from these long-standing and valuable partnerships, doing so would place health-related programs like nursing, allied health programs, medical technology, radiology, counseling and the UND School of Medicine and Health Sciences at risk, with fewer locations to conduct the required clinical portions of their training in a hospital or clinical setting. At present, NDUS healthcare-related programs have already cited difficulty in securing the necessary clinical training locations within the state, even without the

restrictions in Engrossed Senate Bill 2030. In essence, this would force health care program coordinators to assist ND students find limited in-state and out-of-state clinical settings that meet the strict definitional requirements of Engrossed Senate Bill 2030. It further opens the door to out-of-state and online providers who would not be subject to the requirements of SB2030 to enthusiastically scoop up all the vacated clinical locations at hospitals like Sanford, Altru, Trinity, and the Mayo Clinic who could not demonstrate compliance with these provisions — just to name a few. Further, there could be no internships in business, marketing, HR, accounting, communications, or computer science/technology in these same hospital or clinic locations whose partnerships or relationships would be compromised if this bill should pass. Ultimately, given the value of the NDUS institutions' relationships with these providers, some institutions may decide to forego Challenge Grant funds in the interest of maintaining these relationships. This could be catastrophic for the competitiveness of NDUS healthcare programs either way.

Ultimately, NDUS students, more than half of whom are North Dakota residents, are most impacted by Sections 2 and 5. With 60% of the total Challenge Grant funds awarded to date going to scholarships, we are deeply concerned about the impact of Sections 2 and 5 on students in a wide array of programs. The origins of SB2030 were rooted in attempting to make a public postsecondary education more affordable for students. Given that Sections 2 and 5 are not related to student scholarships, perhaps they could be better addressed in a more appropriate bill.

Section 4 – State Funding for Private Universities

As a general matter, whether and how the Legislative Assembly chooses to use state funds to support private universities is outside the NDUS' purview; however, the NDUS would like to draw the Committee's attention to several implications of Section 4 of Engrossed Senate Bill 2030.

The first point relates to potential problems ensuring fiscal and administrative transparency. State law requires the NDUS and its institutions to report and disclose all expenditures on request, including the detailed accounting of expenditure of all Challenge Grant fund distributions by institution. However, private institutions are not required to comply with that state statute, and the open records laws do not apply to private institutions.

The second concern regards open records protections. Information that could identify donors to NDUS institutions is statutorily protected by open records laws. However, this protection does not include private institutions and as such, records submitted to support a matching award to the private institutions would be fully open to the public.

And finally, the NDUS urges the Committee to consider the administrative difficulties facing the challenge grant review committee and the staff of the NDUS who assist with the distribution of Challenge Grant funds. The Legislature, the SBHE, and the Challenge Grant Committee have no



functional authority by which to conduct award administration and compliance oversight over private institutions of higher education, including what scholarship programs would be funded with state dollars or institutional priorities for fundraised dollars.

I respectfully request that Engrossed Senate Bill 2030 be amended to remove Sections 2 and 5 and to remove the private institutions from the engrossment. If these revisions are not approved, I regretfully request a **Do Not Pass on Engrossed Senate Bill 2030**.

Thank you for your time and consideration and stand for questions from Committee members.

Open letter to NDSU President Bresciani.

NDSU and Planned Parenthood (PP) of ND, MN and SD once again have announced their partnership in the "Safe Spaces" outreach program to be held in several cities throughout North Dakota in June. This program is for teachers to receive instruction (and credit) for reliable sexual health information.

The below signers are expressing their deep concern over NDSU's continued partnership with PP, the nations largest abortion provider. Not only is it against the expressed intent of our state to promote abortion and abortion organizations, but PP is currently under federal investigation for human rights violations.

We understand that there is faculty liberty to conduct research and instruction germane to any subject they may teach, however this goes far beyond this scope as it is outreach into the public-school system of our state. It is nothing short of PP inserting their radical agenda into our K-12 school via teacher who instruct these young students. We understand it is a federally funded program, however NDSU via their leadership can certainly affect a change to this and trust that ND K-12 students, including at risk students which are targeted by this NDSU/PP partnership, are well instructed through the programs DPI offers. There have been no known requests at the DPI from any teachers for this program.

It is the intent of the below signed to assure that NDSU ceases to partner with PP and in order to do so we are committed to decrease state funding to NDSU equal to the amount provided federally for this undesirable program.

PP of ND, SD and MN are abortion providers in SD and MN and therefore it is to us a violation of the intent of the laws of ND for a state funded institution to partner with such in this outreach program.

Name	District
Rep. Vicki Steins	District 37
Rep. Michelle Strander	District 41
Rep. Anita Schauer	District 13
Rep. Craig Johnson	District 6
Rep. Kathy Skrock	District 26
Rep. Matthew Ruby	District 40
Rep. Janny Belleau	DIST 38
Rep. Bill Byrnes	DIST 33
Rep. Jan Kasper	DIST 46
Rep. Gary Kneidt	DIST 33
Rep. Pat Anderson	DISTRICT 2
Rep. Mike Lefor	DISTRICT 37
Rep. Jeff Johnson	DIST - 3
Rep. Daniel Johnston	Dist - 24
Rep. Nathan Tanner	DIST 34
Rep. Jeff Dargatzis	DIST 8
Rep. Vernon Davis	DIST - 8
Rep. Aaron McWhorter	DIST. 20
Rep. Bernie Satrom	DIST 12
Rep. Karen Kapsle	District 35 Bismarck
Rep. Ann Fegelman	DIST 13
Rep. Karen M. Rohr	District 31
Rep. Chad M. ...	District 32
Rep. ...	DISTRICT 19
Rep. Bob Paulson	District 3
Rep. Luke Simons	District 36
Rep. Dwight Kiefert	DIST 24
Rep. WAYNE A. TROTTER	DIST 19
Rep. Dan Ruby	District 38
Rep. ...	District 10
Rep. Scott Houser	DISTRICT 23
Rep. Don Vigezza	District 29
Rep. Chit Puller	District 16
Rep. Ben Koppelman	D7
Rep. Rick Becker	04
Rep. Terry B. Jones	D. 23
Rep. Jeff Magrum	D 4
Rep. Clayton Feyler	D 10
Rep. David Morrison	D 45
Rep. Tom Kading	DIST. 5
Rep. Jay Fisher	DIST 15
Rep. Greg Westlund	DIST 14
Rep. Robi Wang	

Name	District
Senator Mike Dwyer	47
Senator Jordan L. Kammann	4
Senator Larry Lueck	25
Senator David Blumens	18
Senator Olychansen	3
Senator Kaddy Kemm	20
Senator Shawn Uedig	6
Senator Diane Larson	30
Senator Robert Erbeke	28
Senator Randy Burchhard	5
Senator Tandy Schmitt	31
Sen. Ron [unclear]	45
Senator David Hogue	38
Senator Jay Elder	30
Senator Robert O. Fors	19
Senator Jerry Klein	14
Senator Dick [unclear]	32
Senator Janne Myrdal	10
Rich Gardner	37
Scott [unclear]	18
Orin Cook	34
David Poolman	7
David S. Rust	2
Paul [unclear]	22
James [unclear]	33
[unclear]	27
[unclear]	41
Deborah [unclear]	39
Deborah [unclear]	42
Ben Terry Wanger	29
[unclear]	46
Rep. [unclear]	26
Rep. [unclear]	47
Rep. Shannon Rousfont	46
Rep. [unclear]	32
Rep. [unclear]	7
Rep. [unclear]	16
Rep. [unclear]	12
Rep. Glenn Bosch	30
Rep. Randy Schreiber	40
Rep. Bill Deulin	23
Rep. Keith [unclear]	39
Rep. [unclear]	28
Rep. [unclear]	36
Rep. Jim [unclear]	31



Great Public Schools

Great Public Service

**Testimony on SB 2030
House Appropriations Committee (E&E Division)
March 15, 2021**

Chairman Monson and members of the Committee, for the record my name is Nick Archuleta, and I am the president of North Dakota United. I rise today in support of SB 2030 and to urge a DO PASS recommendation after the bill is returned to the version passed by the Senate Appropriations Committee.

Mr. Chairman, the two amendments to SB 2030 that were made on the floor of the Senate fundamentally changed the bill. The first, which begins on page 1, line 19, concludes on line 2 of page 2, and has been amended elsewhere into the bill, inserts the issue of abortion in a bill unrelated to that issue. Chairman Monson, and members of the Committee, the inclusion of this amendment unnecessarily introduces a controversial issue into a bill designed to help universities leverage their resources with private entities to create matching grants for student scholarships and the advancement of academics at North Dakota's outstanding institutions of higher education. It is our view that any bill related to abortion should be a stand-alone bill and debated on its merits. The inclusion of that issue in this bill only serves to politicize a program that has enjoyed tremendous support and provides system-wide academic benefits.

The second amendment to SB 2030 which changed the bill can be found on page 2 on lines 18 and 19. This amendment adds North Dakota's two private universities, the University of Jamestown, and the University of Mary, to the list of public institutions of higher education eligible to receive one dollar of matching funds for every two dollars raised by the institutional foundations.

Section 5 of Article VIII of our Constitution states:

"All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school."

Mr. Chairman, I include this reference to the North Dakota Constitution not to imply all public spending in private education is unconstitutional. We all know that *Espinoza v Montana* has changed the landscape to some extent, and I am not a lawyer. Rather, I include this reference in my testimony only to illustrate North Dakota's long and principled intention that monies raised for public education and the provision of public services not be allocated to private institutions of higher education.



Great Public Schools

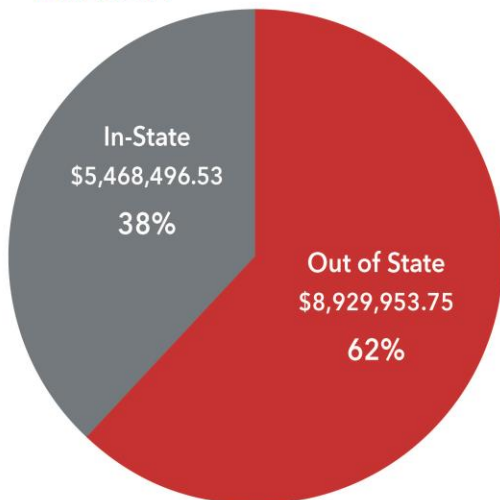
Great Public Service

That said, Mr. Chairman and members of the Committee, I would ask that you consider an amendment to remove the two amendments, return the bill to the version passed by the Senate Appropriations Committee, and so doing, give a DO PASS recommendation to SB 2030.



North Dakota Challenge Grant Dollars

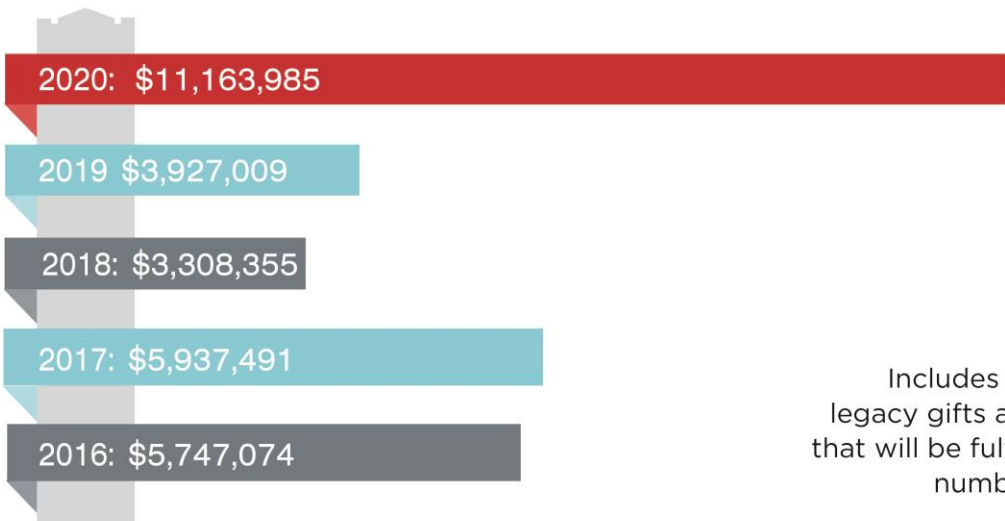
Out of State/In-State Dollars



	State Dollars Allocated through Challenge Grant	Private Dollars
FY 2013-15	\$1,508,855.73	\$3,285,178.05
FY 2015-17	\$1,658,167.23	\$3,781,315.55
FY 2017-19	\$228,049.04	\$4,333,019.24
FY 2020-21	\$950,000.00	\$2,998,937.28
Totals	\$4,345,072.00	\$14,398,450.12

Total Private Donations	In State dollars	Out of State dollars
\$14,398,450.12	\$5,468,496.53	\$8,929,953.75

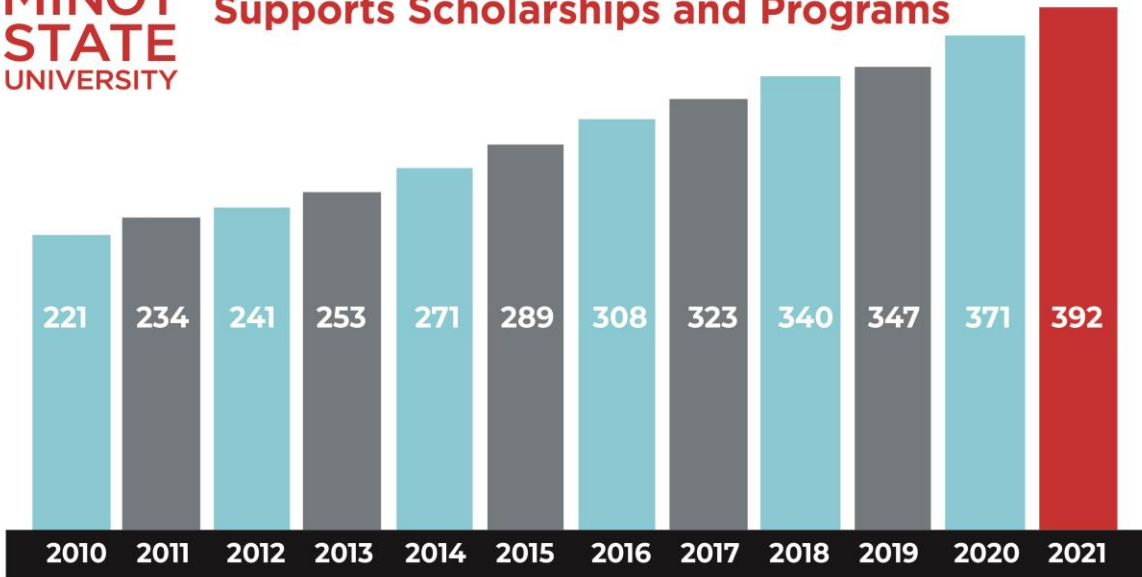
Total Support By All Donors – Calendar Year



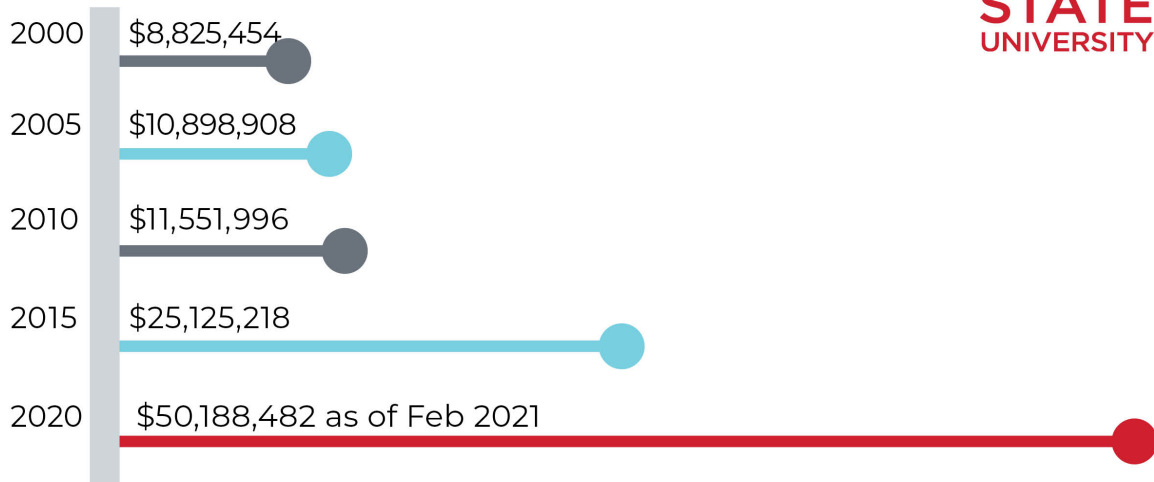
Includes direct gifts, legacy gifts and pledges that will be fulfilled over a number of years.



Fiscal year 2021 — Growth of Endowed Funds Supports Scholarships and Programs



Development Foundation Total Assets



March 15, 2021, ND House Appropriations Committee—Education & Environment Division**SB 2030: Higher Education Challenge Grant****Testimony by Rick Hedberg, Minot State University Development Foundation**

Mr. Chairman and members of the Committee, my name is Rick Hedberg and I'm VP for Advancement and Executive Director of the Minot State University Development Foundation. Thank you for allowing me to speak in support of SB 2030 and the ND Higher Education Challenge Grant program.

At the Minot State University Development Foundation, we have seen, first hand, the benefit of the state matching grant program. I can speak on behalf of our institution in saying that the challenge grant program is one of the top initiatives that has come out of our legislative assembly in the last decade. There really is no argument of this point on our campus and I'd like to share with you some statistics to support this claim.

I would ask you to refer to the handout that was distributed. The first graph is titled "North Dakota Challenge Grant Dollars" and it breaks down the private dollars that were raised by our foundation and the state matching funds that were allocated through the challenge grant since the inception of the program. The interesting point of this chart is where these private donations originate. Of the approximately \$14M submitted by Minot State, nearly 2/3 of the dollars have come from donors that live out of state. I believe this point is significant, as it attracts external dollars from supporters beyond our state back here, thereby making a positive impact within North Dakota.

I recently read a report that highlighted an interesting point with baby boomers and retirees. The report stated that baby boomers are set to pass a mind-boggling \$68 trillion to their children over the next 25 years. If we can continue to provide a "carrot" like the ND Challenge Grant, our state can see a small portion of that \$68 trillion.

The next graph highlights our total support by all donors for the calendar year. As you can see, 2020 was a record year of giving at Minot State. Much of this success can be directly attributed to the challenge grant. I will be very honest in saying that our lowest fundraising total on this slide came in 2018, a year in which we had a smallest amount of challenge grant funds available at \$200,000. I don't think this is a coincidence.

The graph on the back side highlights the growth in endowed funds that support scholarships, academic programs and endowed faculty positions. As you can see, we've had very good growth in the number of endowments. The 2021 total is the fiscal year 2021. We've already added 21 new endowments in the first half of the fiscal year with virtually all these receiving challenge grant support. Just a reminder that these endowments are perpetual funds. We don't touch the principal of these endowments. They will be providing support to our students and our campus for decades and generations to come, long after all of us are gone.

The final graph highlights our development foundation total assets. Again, I don't think it's a coincidence that our foundation assets have grown considerably since the inception of the challenge grant, in fact, total assets have doubled in the last five years. If this program is allowed to continue and adequately funded, I believe you will see this growth in assets continue. The more these assets grow, the more students we are able to support, keeping our institutions affordable and limiting student debt.

I would ask you to consider funding this program at the highest level possible. I would also ask you to limit the program to our 11 state supported institutions. I believe that opening it up to private institutions will severely dilute the program and ultimately the impact on our public school students. We were disappointed to see the

floor amendments added in the senate. We have a great thing going with the ND Higher Ed Challenge Grant, let's keep the momentum.

Private giving is more important than ever—especially when state revenues are challenged. This program encourages external support for academic programs, scholarships and endowed faculty positions to make our colleges and universities affordable to all students.

Thank you for your time and consideration.

March 14, 2021

Dear Chairman Monson and members of the Committee:

Thank you for allowing me to submit testimony regarding Senate Bill 2030, regarding the North Dakota Higher Education Challenge Grant program.

My name is Liz Legerski and I am an Associate Professor of Sociology at the University of North Dakota (UND). This year I am also acting as the Chair of the UND Senate and serving on the Council of College Faculties as the Faculty Advisor to the State Board of Higher Education.


As you know, the Challenge Grant program helps leverage the promise of \$1 of state funding for every \$2 raised by North Dakota University System foundations and private donors to support scholarships for ND students.

These funds have also been used to support academic programming for students. For example, at UND, Challenge Grant funding has helped fund an Executive Scholar Program, which provides students with experiential learning in corporate environments. This funding has also been used to support an annual Leadership Academy, designed to help students expand their individual leadership strengths and understanding of components of leadership such as ethics and collaboration. These funds have also been used to support graduate student research opportunities as well. It's a great program that I was glad to see was endorsed by the Senate Appropriations committee unanimously.

Unfortunately, one of the amendments added to the Challenge Grant bill (SB2030)ⁱ places conditions on the eligibility of these funds that are so broadly written they may prevent NDUS institutions from utilizing this important source of funding if any of their faculty partner with researchers or organizations that approve of materials that may be perceived by others as not encouraging normal childbirth - even if the purpose of their research or collaboration has nothing to do with abortion.

Collaborations between faculty researchers and outside organizations are quite common, especially in areas related to health, medical care, or education. These collaborations may involve, for example, an outside organization that provides evidence-based, age-appropriate educational programming for a community, and NDUS researchers who would be responsible for working with that organization to evaluate the effectiveness of this programming. These kinds of research collaborations are not uncommon and benefit both communities and NDUS institutions.

In fact, research partnerships are often critical to the development and receipt of competitive research grants in higher education. I recently went to grants.gov and searched for grants related to health education available to public and state controlled institutions of higher education, which resulted in over 500 grants worth millions of dollars, sponsored by organizations such as the National Institutes of Health, Centers for Disease Control and Prevention, Department of Education, and more. When researchers collaborate with other scholars and service providers - including private businesses, nonprofit organizations, public health agencies, and other educational institutions - this often improves the competitiveness of these grants.



Unfortunately, the language of the amendment added to the Challenge Grant bill is so broad it may have unintended consequences, stifling opportunities for research collaboration with researchers and organizations beyond the intended targets of this amendment, and the restrictions outlined in this amendment may be particularly problematic for students at NDUS institutions with health, medical, and education related professional programs.

In short, this amendment's limitation on who faculty can partner with in their research could be construed as legislative overreach, and not only undermines the principle of academic freedom, but ultimately punishes students who benefit directly from this funding through access to scholarship opportunities and educational programming.

While I respect the convictions of the sponsors of this bill's amendment, I hope we can all agree that the Challenge Grant bill is not the place to advance those convictions. Please do not hold this important source of funding hostage. I urge the members of this committee to remove this amendment from the bill before it moves to the House for consideration.

Below you will find the resolution opposing the amendments to SB 2030 passed by the Council of College Faculties on March 9, 2021.


Thank you for your time.

Respectfully,



Liz Legerski, PhD

ⁱ The North Dakota State Senate adopted an amendment to SB 2030 on February 18, 2021, to include an eligibility clause stating that "The institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth."



March 9, 2021

Resolution in Opposition to SB 2030 Amendments

Whereas, the North Dakota Senate Bill 2030 provides funding to the State Board of Higher Education (SBHE) to advance academics and provide student scholarships at North Dakota University System (NDUS) institutions through a challenge matching grant program that provides \$1 of state funding for every \$2 raised by the institutional foundations, and

Whereas, SB 2030, as originally written, was a popular, non-political program that received a do pass recommendation from the committee, and

Whereas the North Dakota State Senate adopted an amendment to SB 2030 on February 18, 2021, to include an eligibility clause stating that “The institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth,” and

Whereas the 67th North Dakota Legislative Session approved Senate Bill 2030 with an amendment creating “Section 2. Paragraph 3 of subdivision b of subsection 1 of section 15-10-48 of the North Dakota Century Code;” and

Whereas the amendment, as written, violates the First Amendment of the United States Constitution, which guarantees freedom of expression without government censorship or restriction by federal, state, or local government actors; and

Whereas, this amendment introduces language into the North Dakota Century Code which would limit funding eligibility, and

Whereas, this amendment represents legislative interference with scientific-based education, and

Whereas, this amendment threatens academic freedom, a central principle of higher education, and

Whereas, this amendment threatens faculty research, an important source of scholarship and funding, across the NDUS, and

Whereas legislative overreach via this amendment threatens accreditation by the Higher Learning Commission for higher education institutions as well as specific professional programs, and

Whereas, this amendment may have other significant unintended consequences for students, faculty, and NDUS institutions; and

Whereas, the North Dakota State Senate also adopted the following amendments to Section 4. Amendment. Subdivision a of subsection 1 of section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

- a. (2) University of Jamestown and university of Mary for projects dedicated exclusively to student scholarships.

And to Section 6. Amendment. Subdivision c of subsection 1 of section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

c. (3) Seven hundred fifty thousand dollars each to Dakota college at Bottineau, university of Jamestown, Lake Region state college, university of Mary, and Williston state college.

Whereas the North Dakota Constitution Article VIII, Section 5 states: All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

Therefore, be it resolved that the Council of College Faculties opposes these amendments to SB 2030, and

Therefore, be it resolved that the Council of College Faculties urges the North Dakota State House of Representatives to remove these amendments to SB 2030.

March 15th, 2021

#9096

Chair Monson and Members of the Committee,

My name is Gracie Lian, and I am the current President of the North Dakota Student Association (NDSA). The NDSA is an organization that is directly funded through a small student fee paid by all students attending North Dakota University System (NDUS) institutions, and our organization is tasked with representing and advocating for students across all eleven of North Dakota's public institutions.

I am here today to voice the **NDSA's historical and continued support for the Challenge Fund Grant and our strong opposition to the amendment in Section 2.** The specified amendment would add wording to section 15-10-48 of the North Dakota Century Code that would make an institution's ability to receive Challenge Fund Grant dollars from the state conditional upon that institution removing any ties with "any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth."

The NDSA General Assembly met on February 19th, 2021 and passed NDSA-19-2021¹, "A Resolution Opposing an Amendment to SB 2030." In this resolution the NDSA outlines our concerns with making Challenge Fund Grant money, which is used for student scholarships and educational technologies on campuses, conditional upon state stipulations and legislative policies that are highly polarized and political.

More importantly, however, I would like to point out the impact this could have on the affordability of higher education in North Dakota. "Since the program's inception, \$61.8 million in state dollars has been leveraged with private donations for a total investment of \$192.7 million. Of the total, \$115.7 million, or 60%, was dedicated to increasing student scholarships. \$21.4 was used to expand educational infrastructure, while the remaining dollars were directed to endowed chairs, technology, and research." This information is from the NDUS and was presented by Tammy Dolan and David Krebsbach in earlier testimony, and I believe those numbers are significant enough to bear repeating.

The \$115,700,000 used for student scholarships is an incredibly important and irreplaceable aspect of the Challenge Fund Grant program. Scholarships are often what makes higher education attainable for students – especially low-income and first-generation students. In an educational system such as the NDUS, which prides itself on its affordability for students, every single dollar counts. Especially when that dollar creates a 2:1 match from private donors.

A lack of financial support for students results in higher student debt, lower grades, fewer opportunities for extracurricular involvement, and higher drop-out rates². Studies have even found that nearly half of higher education students are food insecure and go hungry in the United States³. Many of our

¹ <https://ndsa.ndus.edu/wp-content/uploads/sites/5/2021/02/NDSA-19-2021-.pdf>

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7450237/#:~:text=THE%20IMPORTANCE%20OF%20HIGHER%20EDUCATION&text=A%20growing%20patchwork%20of%20recent,12%20%2C%2013%20than%20their%20counterparts.>

³ <https://www.nytimes.com/2019/05/02/nyregion/hunger-college-food-insecurity.html>



institutions have accessible, well-run food pantries. However, the reality is that these food pantries have to exist or some of our students would have to make the decision between continuing their education or going hungry. In a recent NDSU survey, one in three NDSU students reported that they had experienced food insecurity.⁴ Challenge Fund Grant money can be, and likely often has been, a determinant of student success, graduation rates, student debt, and students' ability to feed themselves.

The amendment made in Section 2 is so broad that it could be conceivably applied to all institutions, meaning higher education students all across the state would be impacted. For certain universities it would be an incredibly difficult, if not impossible, task to meet the stipulations of the amendment as written. Colleges of nursing, UND's School of Medicine and Health Sciences, and even relationships with student health centers on campuses could conceivably cause an institution to forfeit their Challenge Grant funding if they wish to continue to provide healthcare services or standardized and required curricula on campuses.

Students will be hurt and miss out on educational and financial opportunities if this amendment is allowed to remain in the bill. The more restrictions and stipulations that are placed on Challenge Fund money, the fewer people that will participate in providing private donations. If kept, the amendment will impede the ability of our universities to fundraise. Since the Challenge Fund was first implemented, NDUS institutions have met increasingly larger fundraising goals and continually broken fundraising records. The NDSA would hate to see that progress stop, and for students to lose educational opportunities, because of this amendment.

The Challenge Fund Grant is an incredibly important part of North Dakota's support for higher education in our state. Students' lives are directly impacted in positive ways because of this program, whether that be through new classroom technologies or scholarships that make their education affordable. The success of the program would be endangered and restricted if the bill were to be passed as it is currently written.

Therefore, the North Dakota Student Association **urges the legislature to remove the amendment in Section 2**, relating to educational and organizational requirements, **and issues our support for the original version of SB 2030**. At this time, the NDSA takes no stance on the amendment that would include the University of Jamestown and the University of Mary in receiving Challenge Grant funding. We only remind the legislature that NDUS institutions have a charge to serve the state of North Dakota, while the private institutions have no such affiliation.

Sincerely,
Gracie Lian
President
North Dakota Student Association
gracie.lian@und.edu | 701.213.7097



⁴ <https://www.valleynewslive.com/2020/11/02/north-dakota-state-university-launches-program-to-reduce-food-insecurity-among-students/>



NDSA-19-2021

A Resolution Opposing an Amendment to SB 2030

WHEREAS, the North Dakota Student Association (NDSA) represents the voice of North Dakota's 45,000 public college and university students; and,

WHEREAS, the purpose of NDSA is to represent all students enrolled in the North Dakota University System (NDUS) and advocate on issues of higher education in support of access, affordability, quality, and the student experience; and,

WHEREAS, NDSA works to increase academic and financial opportunities for higher education students throughout the state; and,

WHEREAS, SB 2030 allocates funding to the Challenge Fund Grant, which encourages higher education to seek donations from private donors through a two-for-one match program where for every \$2 a donor gives, the state will provide the institution with \$1, which provides students with increased access to academic opportunities through scholarships and cutting-edge classroom technology; and,

WHEREAS, an amendment has been proposed to SB 2030 that would forfeit an institution's right to challenge fund grants if they have any ties to organizations that promote or perform abortions, unless that abortion is necessary to prevent a woman's death, and the institutions in question may not participate or sponsor any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth¹; and,

WHEREAS, the NDSA is not taking a stance on the issue of abortion and unreservedly protects the right of individual NDUS students to take their own stance on the issue; and,

WHEREAS, the NDSA believes that the North Dakota State Legislature should not attach divisive political stances to an unrelated educational bill to further a political agenda; and,

WHEREAS, if this amendment were to pass and if institutions were unable to meet its stipulations because of academic ties (school of medicine, healthcare providers, etc.), students would be unfairly affected, both financially and educationally, by a political rider bill; and,

WHEREAS, this sets a dangerous precedent of infringing upon academic and intellectual freedom by requiring institutions to advance partisan political beliefs in order to obtain necessary and irreplaceable academic funding; so,

THEREFORE, BE IT RESOLVED, the NDSA urges the North Dakota State Legislature to remove the amendment to SB 2030 that would attach an abortion stance to Challenge Fund Grant funding; and,

¹ <https://www.legis.nd.gov/assembly/67-2021/documents/21-0144-04000.pdf>



BE IT FURTHER RESOLVED, the NDSA will not support SB 2030 unless the bill is amended to no longer include the specified amendment.

Approved by the NDSA General Assembly on Saturday, February 20th, 2021.

Comments to the North Dakota House Appropriations – Education and Environment Division

Rep. David Monson, Chair

Submitted by DeAnna Carlson Zink

CEO of the University of North Dakota Alumni Association and Foundation

March 15, 2021

Chairman Monson and members of the Committee, thank you for allowing me to submit testimony regarding Senate Bill 2030, the North Dakota Higher Education Challenge Grant program.

Because of how successful this program has been, I am strongly in support of SB 2030, although I do have concerns about the two amendments that have been added and I'd like to speak to whether you can bring the School of Medicine and Health Sciences back into the grant program.

I want to thank each member of the North Dakota Legislature for supporting this initiative in the past. The benefits have been far-reaching—every college and university has been able to directly impact students earning degrees that set them up for lifelong success.

Because many of the gifts are put into endowments, this public/private partnership is not only benefiting current students but will continue to shape North Dakota public higher education into the future.

Since the inception of the challenge fund in 2013, we at the UND Alumni Association and Foundation have utilized our entire \$19 million allocation from the state with \$38 million in gifts and commitments. Two out of every three gifts to the program came from donors outside the state who wanted to invest in higher education in the great state of North Dakota.

Since the North Dakota Challenge Fund began, 467 gifts to UND have funded 230 total projects including 183 endowed scholarship funds.

We have multiple examples of donors who have given thanks to this program and, in some cases, have given more than they originally intended once they learned of this public/private partnership.

I would encourage you to consider allowing us to once again use the grant program in support of UND School of Medicine and Health Sciences students. Under section 15-10-48, "projects" at the School are not eligible for grants. Section 15-10-53 defines projects quite broadly.

Not only are the medical doctoral students excluded from support due to this provision, but hundreds of undergraduates in other programs under the School of Medicine and Health Sciences umbrella are also not able to benefit from these philanthropic scholarships.

During the first two rounds of the challenge grant when SMHS projects received funding, we brought in \$5 million dollars in gifts that qualified for the match with 80 percent of the dollars coming from out of state. We would like the opportunity to again support School of Medicine and Health Sciences students with this program and I strongly urge you to eliminate their exclusion.

I would also ask that you consider the implications of adding private colleges to the grant program. While extra money has been included this biennium, their addition to this program

could dilute the pool in future years and end up reducing funding for students who attend publicly-funded colleges. North Dakota students attending private colleges in the state do have access to state dollars through the Academic or Career and Technical Education Scholarship program. There is also the open question of whether the state has the authority to provide oversight of private colleges as it does for public institutions.

Finally, I'd like to mention the other amendment as well. Although I am not aware of any programs or relationships at the University of North Dakota that would affect UND's participation in the Challenge Grant program, UND has relationships with many health care providers. It is possible under this amendment language that UND could become excluded from the opportunity to benefit students through the Challenge Grant program if one or more of those partners makes a change in their organization that seems to create a conflict with the language – even though that change might not directly connect to UND.

I share the concern of others who have testified regarding the broad language in the bill and the potential for unintended consequences – not only at UND, but at other institutions as well. Those consequences would fall directly on NDUS students.

This year I have been promoting the idea that our students are standing on the shoulders of giants to see their bright futures with a UND degree in hand. Those giants include people like Thomas Clifford and Werner and Colleen Nistler.

I would add that you, as North Dakota lawmakers, are also giants in the eyes of students across the state for your support of this vital program. With approval this biennium, students will have benefited from a decade of Challenge Fund impact. I thank you on their behalf for your vision.

Slide 1

House Appropriations Committee
Education and Environment Division
March 15, 2021

Joshua Wynne, MD, MBA, MPH
Vice President for Health Affairs, UND
Dean, UND SMHS

UND UNIVERSITY OF NORTH DAKOTA
LEADERS IN ACTION

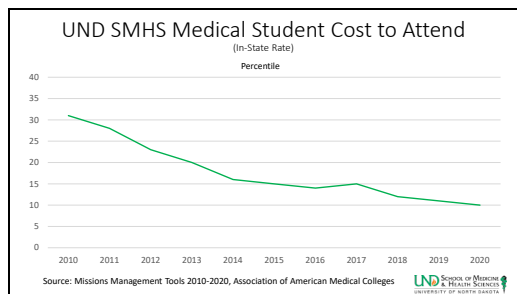
Slide 2

Request from UND SMHS Re: SB 2030

- Remove the restriction in NDCC regarding the participation of the UND SMHS in the Challenge Grant program (NDCC 15-10-48-1d):
"Projects at the university of North Dakota school of medicine and health sciences are not eligible to receive a grant under this section"
- Why? Because of the great importance of student scholarships in retaining physicians and other health sciences graduates for practice in North Dakota

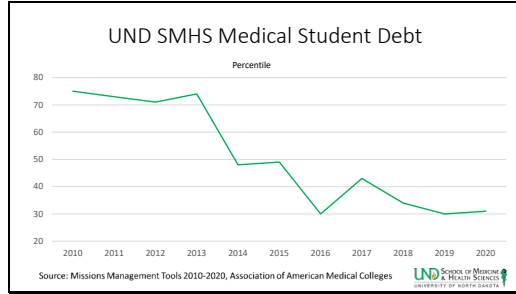
UND School of Medicine & Health Sciences
UNIVERSITY OF NORTH DAKOTA

Slide 3



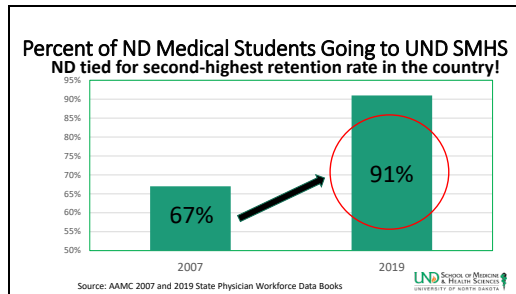
This chart again looks at percentile rank (UND SMHS compared with all other medical schools). In 2020, the cost to attend UND SMHS for a student from North Dakota was lower than at nine out of ten of the medical schools in the US.

Slide 4



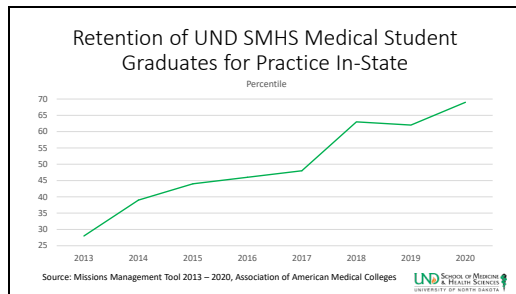
This chart uses percentile rank to look at student debt over time. Our medical students in 2010 had average debt levels well about the national average at other medical schools, and we have now driven the debt level down so that in 2020 the medical students at more than two out of three medical schools had average debt levels more than our students did.

Slide 5



This chart looks at the cohort of North Dakotans who matriculate in any medical school in the United States in the specified year. In 2007, two out of three North Dakotans who entered medical school came to the UND SMHS. Last year that percentage increased to more than nine out of ten.

Slide 6



This chart looks at the retention of UND SMHS medical student graduates for practice in-state. The data are shown as percentile, where our results are compared with all other medical schools. We have gone from well below average in 2013 to well above average in 2020. In 2020, our retention rate was better than that at more than two-thirds of the medical schools in the US.

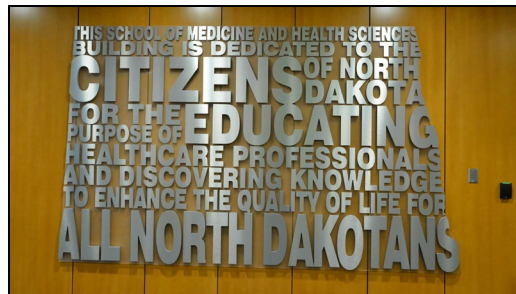
Slide 7

Request from UND SMHS Re: SB 2030

- Remove the restriction in NDCC regarding the participation of the UND SMHS in the Challenge Grant program (NDCC 15-10-48-1d)
- This request is supported by UND and the UNDAAF
- Thank you for your consideration



Slide 8



**North Dakota House Appropriations
Education and Environment Division**

**Chairman – Representative David Monson
March 15, 2021**

Testimony

By: Dr. Polly Peterson, President

University of Jamestown

Email: ppeterso@uj.edu

Phone: 701-252-3467 ext. 5619

Senate Bill 2030

Chairman Monson and members of the House Appropriations Education and Environment Committee, my name is Dr. Polly Peterson, President of the University of Jamestown.

I am speaking today in favor of SB 2030. The Senate adopted an amendment on this bill that adds the foundations of private, North Dakota-based universities as eligible applicants for this program. You will note the funds raised as part of this program for the University of Jamestown and University of Mary can ONLY be used for student scholarships. I am asking that you maintain that support.

The Matching Grant Program began in 2013 and was designed to advance academics at North Dakota institutions of higher learning by matching state dollars with private dollars. It was heralded as a great public-private partnership. The only problem was it left out the private institutions of higher learning.

Let me be clear—we (meaning the University of Jamestown and the University of Mary) jointly asked to be included at that time. The message we received was this: “Wait this round. Come back the next round and it will be easier to be included.” So, we have consistently communicated our desire to be included in the intervening years, and still, we are waiting.

Why do we want to be included? It is very simple from my perspective. Let me give you one example that drives this home. I had a donor who was very close to providing a substantial gift to the University of Jamestown’s foundation. That donor ultimately did not make that gift. The reason: giving that same gift to a public university’s foundation leveraged his gift further. The University of Jamestown lost that donation.

We are not on equal footing. As we seek to raise funds from a highly overlapping and interconnected donor base, the University of Jamestown finds itself at a distinct disadvantage.

I have been in communication with Jerome Richter at the University of Mary, and he said they likewise support the request I am making to this committee.

This challenge grant program has been marketed as a partnership between the private and public sector. It is good for higher education in North Dakota. We see no reason why the private institution’s students should be excluded.

The Matching Grants statute specifically supports the funding of scholarships, and the amendment placed on this program for the Universities of Jamestown and Mary restrict our use to scholarships,

thereby eliminating any question regarding the eligibility of private university participation in this program as determined by the Attorney General in September 2005 (opinion 2005-L-24). Therefore, transfers of the Matching Grant funds to a foundation, for the purpose of providing scholarships to private university students are in fact constitutional and provide a path for private university participation in this program.

The private universities do not receive state funding, so we are here to advocate for our students. We believe funding for higher education in North Dakota should focus on funding students who are residents of North Dakota, and who attend a North Dakota college.

The University of Jamestown has 1200 students in 44 majors, 3 masters and 1 doctoral program. Our retention of students in the state after graduation exceeds 70%. The University of Jamestown has approximately 250 employees and an economic impact in excess of \$80m.

Our students are an integral part of our communities. Between both the University of Jamestown and the University of Mary, our students volunteer over 30,000 hours of service at 200 sites annually.

Students in both communities are helping to meet the labor force needs of our businesses while they are in college and upon graduation. Mary's Leadership Academy and the University of Jamestown's Character in Leadership program have consistently retained students in North Dakota after graduation and both have a long history of graduating talented nurses who are serving in both rural and regional healthcare facilities in our state. Our schools are doing our part to

contribute to our economy and our workforce; all with very little state assistance to our students.

Including private university students in the Matching Grant Program is a way to truly make this a public-private partnership. We respectfully request you consider our amendment.

Thank You Mr. Chairman and members of this committee. I would be happy to address any questions you or the committee may have.

No written testimony. Oral testimony only.

March 15th, 2021

To: ND House Appropriations – Education & Environment Sub-Division
From: Matthew F. Friedmann, Student Body President NDSU

RE: Written Testimony in Support of SB2030

Dear Chairman Monson and Members of the House Appropriations Education & Environment Sub-Division,

I am writing to express my support for SB2030, a bill providing funding from the Challenge Grant to institutions of higher education in North Dakota. Its programs like these that help provide the direct support to students through scholarships that allow us to pursue our dream of a college degree. Students are becoming more reliant on scholarship dollars and we wholeheartedly support any effort by the state legislature to encourage outside invest through matching funds to support these critical scholarship opportunities.

We, however, do not support any infringement on the academic freedom of our professors and vehemently oppose the proposed amendment by Sen. Myrdal. We students come from all over the country to attend NDSU, forgoing the many other options we have when deciding where to attend college. The core of any college experience is what we learn in the classroom and it is paramount that that information is not dictated by the state legislature. If the North Dakota Legislature were to adopt SB2030 with this proposed amendment, the word would get out that NDSU is no longer a beacon of learning. No longer a place of the free and open exchange of ideas like the American university was designed to be. When we step in the classroom, we need to know beyond a doubt that the information we are being taught comes from professionals in the field and not from politicians a hundred miles away in Bismarck.

As the voice of our roughly 13,000 students, I want to make it clear that while we support any effort to encourage investment in student support, it cannot come at the cost of academic freedom. That is not a price the students are willing to pay when the core of our collegiate experience is the knowledge our professors pass onto us in the classroom. I urge you to consider the disastrous effects this precedent sets on higher education and ask that you remove this amendment from SB2030.

Respectfully,



Matthew Friedmann
Student Body President
NDSU

March 13, 2021

TO: ND House Appropriations – Education & Environment Sub-Division

FROM: John R. Glover, President/CEO, NDSU Foundation

RE: Written Testimony in Support of SB2030

Dear Chairman Monson and Members of the House Appropriations Education & Environment Sub-Division,

I'm writing to express our support for SB2030, a bill to provide funding of the North Dakota Challenge Grant Program for the 11 public institutions in the North Dakota University System. Thank you for your previous support of this program; it is one our donors, students and faculty have loved from day one, because it brings leverage to truly make a difference in the lives of students.

However, our support at this time comes with the request that you remove the two amendments added onto the bill by the ND Senate; these are additions we strongly oppose.

The North Dakota State University Foundation is the philanthropic arm of NDSU, with a mission of building enduring relationships that maximize advocacy and philanthropy to support the university.

Today, philanthropy and external relationships are a critical part of the university. And I know all 11 of our system institutions, and the students they educate, would be in very different places were it not for alumni and community support for their missions.

In testimony you're hearing from all colleges and universities, everyone talks about the value of partnerships and leveraging each other to do good for our students, communities, work force and livelihoods.

In 2013, this legislative body bought in on the bipartisan idea of funding a program that partners with philanthropists who care deeply about public higher education. You challenged us to leverage \$.50 of the state's money with \$1.00 of a private donor's money to create scholarships and educational impact.

What happened? Donors called us!

In the fundraising business, it doesn't happen this way. Really ... when was the last time you were willing to pick up the phone when a student from your alma mater was calling you, or when the development officer from your favorite charity was on the line?

Our benefactors to all 11 public institutions love the North Dakota Challenge Grant Program, and they are lining up once again, with hopes this legislative body will offer up as many dollars as possible to make a difference for our students.

What impact has this program had through the NDSU Foundation to support NDSU? Nearly 400 households and businesses (many of them from out of state!) have taken advantage of the matching funds, giving more than \$37M to match nearly \$18.65M NDSU has received through the Challenge Grant program since its inception. Every time, we've run out of state money before donor demand.

You challenged us, and we responded. Challenge us once again, and we will do our part. Most importantly, we will do our part to educate our state's next generation of workers, leaders, thinkers and influencers. In fact, I'd challenge you to take the 'cap off' the program! Give us the chance to truly generate as much investment as possible to support our students and strengthen our state's future.

Now, to address the two amendments added to the bill by the ND Senate. First, Sen. Myrdal's amendment has far-reaching, unintended consequences attacking the First Amendment, academic freedom in intellectual pursuits and the pursuit of advancing basic and applied knowledge to make a difference for our communities and state. If this is allowed, where does it stop? Our entire NDUS system offers education, research and outreach to many aspects of our life. In North Dakota, many of us care about agriculture and energy. What if the next legislator has a personal obsession/ideology ax to grind with education and research faculty and students working on genetically-modified seeds to improve yield? Would cancer research or next-generation extraction technologies to pull oil out of the Bakken be around the corner? This is a bad amendment, period. We strongly urge your committee to strike it down.

To the second amendment regarding the addition of two private colleges, University of Jamestown and University of Mary, to be eligible for Challenge Grant Funding. First, they are private institutions, with a free pass to not be interfered with by the public of North Dakota, nor this legislative body. That's the whole point of being a private institution, free of legislative oversight, influence, etc. Should they be allowed to secure funding through this program, they are now subjected to all the system regulations, processes, and laws that govern the 11 NDUS institutions. How do we all wrestle with that? Never mind, perhaps they are working in areas that certain state legislators take issue with, but they don't want to share that because they are 'private'? Second, where does the precedent stop? How about the state's Tribal Colleges? Other private trade school or digital academy programs? Other private schools doing business in the state, such as newly-named Rasmussen University? The last time I checked, they are educating many community citizens and taxpayers of this state. This is a slippery slope for our precious state resources to be playing with.

Thank you for supporting this program in the past as it has originally stood. Please consider removing the two amendments and allow all 11 public institutions to go to work answering the phone calls we will receive when they hear of the good you have done!

Regards,

John R. Glover
President/CEO
NDSU Foundation

Birgit Pruess, Ph.D.
3696 Harrison St. S
Fargo, ND58104

March 12, 2021

67th Legislative Assembly
State of North Dakota
House Appropriations Committee – Education and Environment Division

Chair Monson and members of the Appropriations Committee,

My name is Birgit Pruess and I am a citizen of the great State of North Dakota, living in Fargo. While I am a state employee, I am testifying here as a private citizen with a solid knowledge of the North Dakota higher education system.

The Senate recently approved Senate Bill 2030 with an amendment of “Section 2. Paragraph 3 of subdivision 1 of section 15-10-48 of the North Dakota Century Code”, limiting eligibility of North Dakota higher ed institutions for the higher education challenge matching grant program. Of course, the increase to appropriation to the State Board of Higher Education for this program is much appreciated. However, limiting eligibility of our institutions for this grant based on their research activities is problematic for several reasons:

- 1) The First Amendment of the United States constitution guarantees freedom of expression without government censorship. The proposed amendment is in violation of such freedom.
- 2) The American Association of University Professors has very clearly defined standards for academic freedom. Limiting funding to institutions based on the popularity of their research activities among state legislators is not in agreement with academic freedom.
- 3) There is the potential that political interference in our research activities poses risk to accreditation of some of the professional programs.
- 4) There is no guarantee that an institution will chose to discontinue an unpopular research program. In this case, the people who will be punished with this amendment will be the students who would otherwise get scholarships from the challenge grant.
- 5) This amendment could open us up for a dangerous precedence. I am sure there are other companies that our institutions are collaborating with that could constitute a problem for individual legislators. This could potentially inhibit a wide range of research activities at our institutions in the future.

Altogether, I am in strong favor of the higher education challenge grant and the increase in appropriation through the SBHE. I am however in strong opposition to the amendment which would limit eligibility for institutions based on the nature of their research activities. Seeing as the current bill includes the amendment, I have to oppose the bill. I encourage senators to carefully consider the amendment and the impact it has on research in our state. I would very much appreciate if this amendment could be eliminated from the bill.

Sincerely and respectfully



Birgit Pruess, Ph.D.

Senate Bill 2030

House Appropriations Committee – Education and Environment Division

March 15, 2021

Testimony Submitted by Dr. Florin Salajan, President of the Faculty Senate
North Dakota State University

Dear Chairman Monson and Members of the House Appropriations Committee:

I am writing to urge you to **strip the amendment** added to Senate Bill 2030 that introduces new language in the section 15-10-48 of the ND Century Code, intended to limit funding eligibility for higher education institutions.

While our faculty enthusiastically support the original intent of the bill to increase the funding available to the higher education challenge matching grant program, this added amendment sets a dangerous precedent for legislative overreach into academic research across the North Dakota University System (NDUS). This amendment raises serious concerns for and constitutes a direct infringement on academic freedom, with the potential for unintended consequences across the NDUS system.

Infringement on Academic Freedom

Academic freedom refers to the ability of teachers, students, and educational institutions to pursue knowledge without unreasonable political or government interference. Institutional academic freedom safeguards the university as a whole from government or other external encroachment. Included within this concept is protecting the right of universities and colleges to engage in all aspects of intellectual activity and the faculty's autonomy in deciding what research to conduct and publish. Academic freedom falls under the First Amendment. For there to be any governmental regulation, the government must provide evidence that it has a compelling government interest in regulating the matter using the most narrowly tailored or least restrictive means to achieve its compelling interest in order to be constitutional.

A research university like NDSU should not be subjected to limitations on its areas of research out of concerns that it may offend the political views of particular members of the state legislature. This represents an infringement on academic freedom, a fundamental principle of any academic pursuits and most important for the long-term success of any institution of higher education. Political pressure is not, nor can it be the basis on which academic decisions are made. Conditioning financial appropriations on the content and funding sources of scholarly research fundamentally violates institutional academic freedom and amounts to a breach of faculty's individual liberties and freedom of speech protected under the U.S. Constitution's First Amendment.

This amendment sets a dangerous precedent by enabling the state legislature to exert control over the research and teaching agendas of SBHE institutions through funding restrictions. If unchallenged, this power has future implications for other areas of research and could cause irreparable injury to the ways in which institutional research contributes to our state. For instance, if powerful companies did not like certain research, could they lobby the legislature to punish a university to prevent the research? Would the legislature limit research on other areas select legislators perceived to be controversial or incompatible with their personal political priorities, such as climate change, renewable energy, artificial intelligence or human genomics research?

Unintended Consequences

This amendment may be directly aimed at NDSU under the misconception that the targeted NDSU grant involves abortion services, when in reality the NDSU grant is solely related to providing education about evidence-based standards to prevent unwanted pregnancy. However, the amendment may have significant unintended consequences for other higher education institutions and organizations across North Dakota.

For example, the amendment may render any university within the SBHE system with a nursing or medical school ineligible to receive the funding. Abortion is part of all healthcare curricula and, according to professional accrediting organizations, it must be presented in ways that allow the rigorous and prudent examination of both abortion and childbirth options.

As a part of NDSU's land-grant mission, our faculty are committed to providing education without restriction to the citizens of our state. This amendment interferes with NDSU's ability to provide this unencumbered education and will unjustifiably limit student scholarships for students from our state.

In sum, on behalf of the campus faculty it represents, the NDSU Faculty Senate acknowledges and welcomes the prerogative of the state legislature to allocate funding for higher education institutions in our state, particularly in the present dual crisis spurred on by an ongoing pandemic and budgetary exigency. However, **the Faculty Senate firmly opposes the legislative overreach into academic research via the SB 2030 amendment and urges state legislators to reverse this decision so patently intended to stifle academic freedom.** Encroachment on the core values of individual liberty and freedom of speech, both protected by the First Amendment, has no place in North Dakota where protection of these values is fundamental to our citizens.

Respectfully,



Florin D. Salajan, Ed.D.
Associate Professor of Education
Faculty Senate President

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division
Prairie Room, State Capitol

SB 2030
3/23/2021

House Appropriations Committee - Education and Environment

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Chairman David Monson called the meeting to order at 9:05 a.m.

Representative	Present	Absent
Chairman Monson	P	
Vice Chairman Schmidt	P	
Representative Martinson	P	
Representative Nathe	P	
Representative Sanford	P	
Representative Schatz	P	
Representative Boe	P	

Discussion Topics:

- Proposed amendment
- NDSU and Planned Parenthood
- Adding a penalty for breaking the law

Chairman David Monson (9:05 a.m.) explained his proposed amendment. Testimony #10531

Tammy Dolan (9:39 a.m.) testified neutrally.

Additional written testimony: #10530, #10532

Chairman David Monson adjourned the meeting at 10:08 a.m.

Klarissa Pudwill, Committee Clerk

21.0144.04002
Title.

Prepared by the Legislative Council staff for
Representative Monson
March 11, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 2, remove "to create and enact paragraph 3 of"

Page 1, remove lines 3 through 7

Page 1, line 8, replace the first "of" with "and to amend and reenact subdivision b of subsection 1 of section 15-10-48 and subdivision b of subsection 1 of"

Page 1, line 12, replace "\$21,500,000" with "\$9,650,000"

Page 1, remove lines 17 through 24

Page 2, remove lines 1 through 31

Page 3, replace lines 1 through 15 with:

"SECTION 2. AMENDMENT. Subdivision b of subsection 1 of section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

- b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least fifty thousand dollars in cash or monetary pledges for a qualifying project; ~~and~~
 - (2) The project has been approved by the grant review committee established in section 15-10-51; and
 - (3) The institution is in compliance with the limitations in chapter 14-02.3.

SECTION 3. AMENDMENT. Subdivision b of subsection 1 of section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

- b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least twenty-five thousand dollars in cash or monetary pledges for a qualifying project; ~~and~~
 - (2) The project has been approved by the grant review committee established in section 15-10-51; and
 - (3) The institution is in compliance with the limitations in chapter 14-02.3."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment removes the language adding the University of Jamestown and the University of Mary to the higher education challenge grant program and reduces the appropriation for the program from \$21,500,000 to \$9,650,000 from the general fund, the same amount as provided for the 2019-21 biennium. This amendment also amends language relating to institution

eligibility for the program to require that institutions be in compliance with North Dakota Century Code Chapter 14-02.3, relating to the limitation of abortion. Among other limitations in Chapter 14-02.3, Section 14-02.3-02 provides that no federal funds passing through the state treasury or a state agency be used as family planning funds by any person or public or private agency which performs, refers, or encourages abortion.

CHAPTER 14-02.3
LIMITATION OF ABORTION

14-02.3-01. State policy on abortion and childbirth - Use of public funds restricted.

1. Between normal childbirth and abortion, it is the policy of the state of North Dakota that normal childbirth is to be given preference, encouragement, and support by law and by state action, it being in the best interests of the well-being and common good of North Dakota citizens.
2. An agency of this state may not produce, distribute, publish, disseminate, endorse, or approve materials of any type that, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. An agency of the state may not fund, endorse, or support any program that, between normal childbirth and abortion, does not give preference, encouragement, and support to normal childbirth.
3. No funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency may be used to pay for the performance, or for promoting the performance, of an abortion unless the abortion is necessary to prevent the death of the woman.

14-02.3-02. Use of public funds for family planning - Use for the performance, referral, and encouragement of abortion prohibited.

No funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency may be used as family planning funds by any person or public or private agency which performs, refers, or encourages abortion.

14-02.3-03. Payment for abortions by health insurance policies delivered or issued in North Dakota restricted.

No health insurance contracts, plans, or policies delivered or issued for delivery in this state may provide coverage for abortions, including the elimination of one or more unborn children in a multifetal pregnancy, except by an optional rider for which there must be paid an additional premium. Provided, however, that this section does not apply to the performance of an abortion necessary to prevent the death of the woman.

14-02.3-04. Abortion in government hospitals operated within North Dakota restricted.

No person may authorize or perform an abortion in a hospital owned, maintained, or operated within the state by the state or any of its agencies or by any political subdivision of the state, unless the abortion is necessary to prevent the death of the woman.

14-02.3-05. Penalty.

Any person found guilty of violating this chapter is guilty of a class B misdemeanor.

SENATE BILL NO. 2030
LISTING OF PROPOSED CHANGES TO BILL

Department - University System Challenge Grants

Proposed funding changes:

Description	FTE	General Fund	Special Funds	Total
1 Remove eligibility for private universities		(\$1,500,000)		(\$1,500,000)
2 Reduce funding to return to the level appropriated for the 2019-21 biennium		(\$10,350,000)		(\$10,350,000)
3				\$0
Total proposed funding changes		<u>(\$11,850,000)</u>	<u>\$0</u>	<u>(\$11,850,000)</u>

Other proposed changes:

- 1 Repeal subdivision d of subsection 1 of section 15-10-48 to allow the UND School of Medicine to be eligible for the program.
- 2 Remove restrictions on use of program funds in section 15-10-53 to allow funds to be used for athletics and capital projects.
- 3 Consider eligibility language added by the Senate related to abortion.
- 4

NDLA, H APP EE - Pudwill, Klarissa

From: Martinson, Bob W.
Sent: Tuesday, March 23, 2021 9:40 AM
To: NDLA, H APP EE - Pudwill, Klarissa
Subject: Fwd: Vote No on SB 2030

From: Rubbelke, Kristin <krubbelke.naswnd@socialworkers.org>
Sent: Tuesday, March 23, 2021 8:30:11 AM
To: Martinson, Bob W. <bmartinson@nd.gov>
Subject: Re: Vote No on SB 2030

***** **CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Representative Martinson,

Yes! Thank you for asking.

The amendment basically creates a situation where social workers, students, and educators are unable to discuss abortion in neutral terms, make referrals for appropriate resources, and limits internship placement options and more. It creates a huge conflict of interest for social workers who give clients the right to self-determination. Related to reproductive health, this means “without government interference or reproductive coercion...”

Social workers also have ethical guidelines around informed consent, which includes “clear language to inform the client of the purposes, risks, and limits to services,” which are based off of empirical evidence. Providing misinformation or no information to clients (or students) to try to dissuade women from having an abortion would be a violation of the code of ethics, which is now embedded in the North Dakota Board of Social Work Examiners administrative rules for social workers. If social workers are in violation of the code of ethics, they run the risk losing their license.

Best wishes,

Kristin Rubbelke
Executive Director
NASW-ND
(she, her, hers)

On Mar 23, 2021, 7:39 AM -0500, Martinson, Bob W. <bmartinson@nd.gov>, wrote:

[EXTERNAL]

Would you please take a minute and explain what your concern has to do with abortion. And the Challenge Grant program. Thank you very much...

From: Rubbelke, Kristin <krubbelke.naswnd@socialworkers.org>
Sent: Tuesday, March 23, 2021 7:11:19 AM

To: Martinson, Bob W. <bmartinson@nd.gov>

Subject: Re: Vote No on SB 2030

***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

I am sorry, I forgot to attach the document.

Please see attached and feel free to reach out for further information.

Hope you have a wonderful day.

Best wishes,

Kristin Rubbelke
Executive Director
NASW-ND
(she, her, hers)

On Mar 23, 2021, 7:06 AM -0500, Kristin Rubbelke <krubbelke.naswnd@socialworkers.org>, wrote:

Good morning,

My name is Kristin Rubbelke and I am the Executive Director of the National Association of Social Workers, North Dakota Chapter (NASW-ND). I am reaching out today to encourage you to vote no on Section 2 of SB2030.

Section 2 of SB2030 provides for an extreme conflict of interest for social work. This amendment will make social workers choose money over empirical evidence in education, training, and practice.

This amendment will have disastrous effects on social workers and their ability to comply with the NASW Code of Ethics, therefore possibly bringing them out of compliance with the state licensing boards. I have concerns about accreditation, as well.

Please see attached for further information.

On behalf of social workers in the state of North Dakota, please vote no on section 2 of SB2030 to keep the integrity of social work alive in North Dakota.

Best wishes,

Kristin Rubbelke
Executive Director
NASW-ND
(she, her, hers)

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2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division Prairie Room, State Capitol

SB 2030
3/24/2021

House Appropriations Committee - Education and Environment

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Chairman David Monson called the meeting to order at 8:33 a.m.

Representative	Present	Absent
Chairman Monson	P	
Vice Chairman Schmidt	P	
Representative Martinson	P	
Representative Nathe		A
Representative Sanford	P	
Representative Schatz	P	
Representative Boe	P	

Discussion Topics:

- Planned Parenthood

Chairman David Monson (8:34 a.m.) explained his proposed amendments. Testimony #10662

Representative Mark Sanford (8:49 a.m.) explained his proposed amendment 21.0144.04003. Testimony #10661

Representative Mark Sanford made a motion to adopt his amendment 21.0144.04003

Representative Bob Martinson seconded

Voice vote taken: Motion carried

Representative Bob Martinson made a motion to include the additional money for the medical school

Representative Mark Sanford seconded

Voice vote taken: Motion carried

Chairman David Monson closed the meeting at 8:58 a.m.

Klarissa Pudwill, Committee Clerk

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 5, remove the first "and"

Page 1, line 9, after "academics" insert "; and to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of projects at the university of North Dakota school of medicine and health sciences to receive matching grants for the advancement of academics"

Page 3, after line 15, insert:

"SECTION 8. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment allows projects at the University of North Dakota School of Medicine and Health Sciences to be eligible to receive grants from the higher education challenge matching grant program. The School of Medicine and Health Sciences would be eligible to receive grants from the University of North Dakota's allocation of challenge grant program funding.

21.0144.04005
Title.

Prepared by the Legislative Council staff for
Representative Monson
March 23, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 15-18.2-05 of the North Dakota Century Code, relating to the higher education funding formula.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid.

1. Except as provided under ~~subsection 2~~ subsections 2 and 3, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:
 - a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.
3. If an institution provides a federal grant subaward to or partners with an organization for the education of adolescents and young adults on abstinence and contraception to prevent pregnancy and sexually transmitted infections and that organization performs or promotes the performance of an abortion, unless the abortion is necessary to prevent the death of the woman, the state board of higher education shall multiply the product determined under section 15-18.2-04 by ninety-eight percent of the base amount to which the institution is entitled under subsection 1."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment removes language and funding related to the higher education challenge grant program and provides for a higher education funding formula reduction of 2 percent for any institution that provides a federal grant subaward to or partners with an organization for family planning education if that organization performs or promotes the performance of an abortion.

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 2, remove "to create and enact paragraph 3 of"

Page 1, remove lines 3 through 7

Page 1, line 8, replace "of section 15-10-49" with "and to amend and reenact subsection 1 of section 15-10-48"

Page 1, line 12, replace "\$21,500,000" with "\$9,650,000"

Page 1, remove lines 17 through 24

Page 2, remove lines 1 through 31

Page 3, replace lines 1 through 15 with:

"SECTION 2. AMENDMENT. Subsection 1 of section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Subject to legislative appropriations, each biennium during the period beginning July first of each odd-numbered year and ending December thirty-first of each even-numbered year, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of the university of North Dakota and North Dakota state university for projects dedicated exclusively to the advancement of academics.
- b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least fifty thousand dollars in cash or monetary pledges for a qualifying project; ~~and~~
 - (2) The project has been approved by the grant review committee established in section 15-10-51; and
 - (3) The institution does not provide a federal grant subaward to or partner with an organization for the education of adolescents and young adults on abstinence and contraception to prevent pregnancy and sexually transmitted infections if that organization performs or promotes the performance of an abortion, unless the abortion is necessary to prevent the death of the woman.
- c. The board may award up to one million seven hundred thousand dollars in matching grants to each institution.
- d. Projects at the university of North Dakota school of medicine and health sciences are not eligible to receive a grant under this section."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment removes the language adding the University of Jamestown and the University of Mary to the higher education challenge grant program and reduces the appropriation for the program from \$21,500,000 to \$9,650,000 from the general fund, the same amount as provided for the 2019-21 biennium. This amendment also amends language relating to institution eligibility for the program to require that institutions not provide a federal grant subaward to or partner with an organization for family planning education if that organization performs or promotes the performance of an abortion.

21.0144.04003
Title.

Prepared by the Legislative Council staff for
Representative Sanford
March 18, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 5, remove the first "and"

Page 1, line 9, after "academics" insert "; and to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of projects at the university of North Dakota school of medicine and health sciences to receive matching grants for the advancement of academics"

Page 3, after line 15, insert:

"SECTION 8. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment allows projects at the University of North Dakota School of Medicine and Health Sciences to be eligible to receive grants from the higher education challenge matching grant program. The School of Medicine and Health Sciences would be eligible to receive grants from the University of North Dakota's allocation of challenge grant program funding.

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division
Prairie Room, State Capitol

SB 2030
3/25/2021 am
House Appropriations Committee - Education and Environment

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Chairman David Monson called the meeting to order at 8:34 a.m.

Representative	Present	Absent
Chairman Monson	P	
Vice Chairman Schmidt	P	
Representative Martinson	P	
Representative Nathe	P	
Representative Sanford	P	
Representative Schatz	P	
Representative Boe	P	

Discussion Topics:

- Planned Parenthood

Jane Schue (8:35 a.m.) testified neutrally. Testimony #10766 submitted by Tammy Dolan.

Tammy Dolan (8:45 a.m.) testified neutrally. Testimony #10766

Joshua Wynne (8:46 a.m.) testified neutrally.

Dr. Molly Secor-Turner (8:56 a.m.) testified neutrally.

Additional written testimony: #10764

Chairman David Monson closed the meeting at 9:15 a.m.

Klarissa Pudwill, Committee Clerk

Legislative Request

NDSU Subaward #FAR0033987: Extent of compliance with N.D.C.C. 14-02.3

NDUS Compliance Report

March 25, 2021

Request by the North Dakota Senate Appropriations Committee – Education and Environmental Division to determine the extent to which NDSU Subaward #FAR0033987 (Planned Parenthood Minnesota, North Dakota, South Dakota) is in compliance with N.D.C.C. 14-02.3 Limitation of Abortion



NDUS Compliance Office
1700 Schafer St #222
Bismarck, ND 58501
Phone: 701-224-2405
Email: karol.riedman@ndus.edu

Conveyance Letter

March 25, 2021

Senator David Monson, Chair
Senate Appropriations Committee – Education & Environment Division
State Capitol
600 E Boulevard Ave
Bismarck, ND 58505

Dear Chair Monson and members of the Committee:

During the committee work on HB 2030 on March 23, 2021, you requested the NDUS Compliance Officer review NDSU's contract with Planned Parenthood through Subaward #FAR0033987. The request was to determine if this contract violates ND state law, specifically N.D.C.C. chapter 14-02.3, and to determine if NDSU's legal counsel had previously reviewed this relationship in regard to this law. The results of my review are presented in the attached Executive Summary and the following detailed background and analysis.

Inquiries or comments relating to this engagement may be directed to me at (701) 224-2405. I wish to thank President Bresciani for the prompt and courteous cooperation and assistance offered during the engagement.

Respectfully submitted,

Karol K Riedman, MPA, CPA, CIA, CEEP
NDUS Chief Compliance Officer

Cc: Mark Hagerott, NDUS Chancellor
Dean Bresciani, NDSU President
Tammy Dolan, NDUS Vice-President for Administrative Affairs

Executive Summary

North Dakota State University (NDSU) is the recipient of the Department of Health and Human Services Administration for Children and Families (DHHS-ACF) Award No. 90AK0058-06-00 for the “PREP: Making Healthy Choices” project. The current award period is from September 30, 2015 through September 29, 2021. The current year award is \$250,000, of which \$172,613 is budgeted for a subaward, which was awarded to Planned Parenthood Minnesota, North Dakota, South Dakota (Planned Parenthood) through Subaward #FAR0033987 (Contract). On March 23, 2021, the Senate Appropriations Committee – Education and Environmental Division (the Committee) requested a compliance review by this office to determine if this subaward is in compliance with N.D.C.C. 14-02.3, because Planned Parenthood performs and/or promotes the performance of abortions outside the State of North Dakota.¹ The Committee also requested that this office verify whether there had been legal reviews of the program in relation to N.D.C.C. 14-02.3 and other relevant sections of the North Dakota Century Code.

Resources used for this review include the most current grant application, the DHHS-ACF grant award notice, the DHHS-ACF grant guidance, the subaward contract between NDSU and Planned Parenthood, records of payments made to Planned Parenthood under this contract, and memos regarding past legal reviews, as well as the contents and summation of the three curricula used in the program. NDSU provided these documents. In addition, I reviewed N.D.C.C. 14-02.3 and the North Dakota Attorney General Letter Opinion 2013-L-02, which concluded that the Eighth Circuit Court of Appeals 1981 decision in Valley Family Planning v. State of N.D. completely invalidated N.D.C.C. 14-02.3-02.

1. Does the grant and subaward contract violate state law and policy regarding abortion, specifically N.D.C.C. 14-02.3?

The request from the Committee sought a review of the grant and subaward’s compliance with state law and policy regarding abortion and related sections. In order to respond to this request, this summary and report will address each relevant section in turn. For ease of review, the code sections in question are reproduced below, with analysis following each section in italics.

14-02.3-01. State policy on abortion and childbirth - Use of public funds restricted.

1. Between normal childbirth and abortion, it is the policy of the state of North Dakota that normal childbirth is to be given preference, encouragement, and support by law and by state action, it being in the best interests of the well-being and common good of North Dakota citizens.

Paragraph 14-02.3-01(1) sets forth the policy of the State of North Dakota to prefer normal childbirth over abortion. With that policy in mind, the focus of the PREP: Making Health Choices program and

¹ For the purposes of this report, I have assumed that the Planned Parenthood entity which received the subaward from NDSU is the same Planned Parenthood entity that performs abortions in other states. I have not received information which would substantiate this statement.

curricula is the prevention of pregnancy and sexually transmitted infections. The program summaries indicate that the program does not include references to or comparisons between the relative merits of normal childbirth and abortion. As a result, my initial review does not include an analysis of the preference, encouragement, or support of normal childbirth compared to abortion in this program. It does not appear that the PREP: Making Healthy Choices program and curricula contravene the state policy as set forth in this section.

The subaward contract is not in violation of this paragraph.

2. An agency of this state may not produce, distribute, publish, disseminate, endorse, or approve materials of any type that, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. An agency of the state may not fund, endorse, or support any program that, between normal childbirth and abortion, does not give preference, encouragement, and support to normal childbirth.

This paragraph prohibits state agencies from producing materials that, where normal childbirth and abortion are concerned, do not favor normal childbirth over abortion. The focus of the PREP: Making Health Choices program and curricula is prevention of pregnancy and sexually transmitted infections. The curricula summary indicates that the program, as taught in North Dakota, does not include references to or comparisons between normal childbirth and abortion. Review of the complete curriculum is in process and may confirm or refute this statement.

One of the three curricula in use as part of the PREP: Making Healthy Choices program is a standard nation-wide curriculum that includes a lesson entitled "Pregnancy Options," which refers to and discusses abortion and natural childbirth. This lesson is required by the state of California. However, according to NDSU and Planned Parenthood program representatives, this lesson is not included in the North Dakota PREP: Making Healthy Choices program, so the "Pregnancy Options" lesson is outside the scope of my review. As a result, because the PREP: Making Healthy Choices program, as taught in the state of North Dakota does not appear to reference or compare normal childbirth and abortion, my review did not include an analysis of the relative preference, encouragement and support given to normal childbirth and abortion in the program.

Preliminary finding: The subaward contract likely does not violate this paragraph.

3. No funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency may be used to pay for the performance, or for promoting the performance, of an abortion unless the abortion is necessary to prevent the death of the woman.

This paragraph provides that neither state funds, nor federal funds that pass through state agencies, may fund the performance of abortions or promote the same. As the PREP: Making Healthy Choices program does not involve funding the performance of abortions, the only relevant question posed by this paragraph is whether the subaward contract "promot[es] the performance" of an abortion. According to Black's Law Dictionary, 8th ed., to "promote" means "to encourage or incite." Based on my review of the program summary, the PREP: Making Healthy Choices program does not discuss or

assign a value judgment to the performance of abortion, and thereby does not encourage or incite the performance of an abortion.

As noted above, a review of the complete curricula is ongoing, and may change the outcome of this preliminary finding.

Preliminary finding: The subaward contract is not in violation of this paragraph.

14-02.3-02. Use of public funds for family planning - Use for the performance, referral, and encouragement of abortion prohibited.

No funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency may be used as family planning funds by any person or public or private agency which performs, refers, or encourages abortion.

This section was specifically ruled unconstitutional in 1981 by the Eighth Circuit Court of Appeals in Valley Family Planning v. State of N.D., 661 F.2d 99 (8th Cir. 1981). Subsequently, a question arose regarding whether this section could be applied notwithstanding this decision, and the NDUS sought an opinion from the North Dakota Attorney General in 2013. In Letter Opinion 2013-I-02, Attorney General Stenehjem determined the decision rendered in Valley Family Planning completely invalidated N.D.C.C. 14-02.3-02. Therefore, my review does not evaluate whether the PREP: Making Healthy Choices program and related subaward contract complies with this section.

14-02.3-03. Payment for abortions by health insurance policies delivered or issued in North Dakota restricted.

No health insurance contracts, plans, or policies delivered or issued for delivery in this state may provide coverage for abortions, including the elimination of one or more unborn children in a multifetal pregnancy, except by an optional rider for which there must be paid an additional premium. Provided, however, that this section does not apply to the performance of an abortion necessary to prevent the death of the woman.

This paragraph regarding health insurance policy payments for abortions is not applicable to the requested compliance review.

14-02.3-04. Abortion in government hospitals operated within North Dakota restricted.

No person may authorize or perform an abortion in a hospital owned, maintained, or operated within the state by the state or any of its agencies or by any political subdivision of the state, unless the abortion is necessary to prevent the death of the woman.

This paragraph regarding abortions in government hospitals within North Dakota is not applicable to the requested compliance review.

14-02.3-05. Penalty.

Any person found guilty of violating this chapter is guilty of a class B misdemeanor.

This paragraph does not set forth the policy of the state of North Dakota with respect to the abortion, and instead solely provides a penalty for the violation of the above sections. As a result, this paragraph is not relevant to the compliance review.

2. Has NDSU previously sought legal review of the relationship with Planned Parenthood for legal compliance?

NDSU responded to this question by providing a legal review summary (reproduced below). Based on reviewing this summary and the exhibits referenced, while various legal reviews have been performed, it appears that there has been no legal review of N.D.C.C. 14-02.3-01, which is the only paragraph relevant to the requested compliance review, as discussed above.

Response to Item No. 4: The C-PREP grant is awarded from the U.S. Department of Health and Human Services to NDSU. A portion of the funds pays a subawardee, Planned Parenthood of Minnesota North Dakota and South Dakota, to provide educational services. The grant has gone through a variety of administrative/legal review processes. Preliminarily, it was vetted through the normal grant review process at NDSU. As part of that process, it was reviewed by the North Dakota Department of Commerce. Please see **Exhibit A**.

In January of 2013, a State Senator requested that Legislative Council review this grant to determine “if the grant goes counter to the intent of HB 1229 from the 2011 session or other sections of North Dakota law.” The opinion from Legislative Council was limited to HB 1229, and it found that the grant was not in conflict. Please see **Exhibit B**.

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As indicated, a variety of entities have reviewed legal issues of the grant under North Dakota law. However, NDSU is unaware of any written legal opinion or recommendation specifically considering N.D.C.C. 14-02.3-01.

Personal Responsibility Education Program (PREP): Making Healthy Choices

Federal Award	Project Period	Total Funded Amount	Subaward #	Subaward Amount	NDSU
90AK0012-01	9/30/2012 -9/29/2013	297,867	FAR-0020755	196,230	101,637
90AK0012-02	9/30/2013 -9/29/2014	357,756	FAR-0022223	211,889	145,867
90AK0012-03	9/30/2014 -9/29/2015	429,837	FAR-0023711	247,033	182,804
90AK0058-01	9/30/2015 -9/29/2016	250,000	FAR-0025513	171,768	78,232
90AK0058-02	9/30/2016 -9/29/2017	250,000	FAR-0026968	177,249	72,751
90AK0058-03	9/30/2017 -9/29/2018	250,000	FAR-0028658	165,629	84,371
90AK0058-04	9/30/2018 -9/29/2019	250,000	FAR-0030171	139,623	110,377
90AK0058-05	9/30/2019 -9/29/2020	250,000	FAR-0031858	132,080	117,920
90AK0058-06	9/30/2020 -9/29/2021	250,000	FAR-0033987	168,054	81,946
	Total	2,585,460		1,609,555	975,905

NDSU SUBAWARD #FAR0033987

This Subaward is between **Planned Parenthood Minnesota, North Dakota, South Dakota** (hereinafter "Recipient"), and **North Dakota State University** (hereinafter "NDSU").

NDSU and Recipient, intending to be legally bound, hereby agree as follows:

1. Scope of Work. The Recipient will undertake the work set forth in its proposal submitted in support of the project entitled "Personal Responsibility Education Program (PREP): Making Healthy Choices", including the following tasks:
 - a) Supply program and curriculum materials;
 - b) Recruit for and facilitate community sexual health education programs with high-risk, vulnerable youth;
 - c) Assist with program evaluation efforts and overall project design and implementation;
 - d) Recruit program delivery partners; and
 - e) Provide training and technical support for the program delivery partners.

2. Term. The Term of this Subaward is from September 30, 2020 through September 29, 2021.

3. Allowable Costs and Payments. In its performance of the Scope of Work, the Recipient may incur costs up to \$168,054.00 during the Term. NDSU will reimburse the Recipient for allowable costs after receipt of Recipient's standard invoice. Recipient shall submit invoices at least quarterly, but no more frequently than monthly. The final invoice shall be submitted within 45 days after the period of performance ends and marked "FINAL". All invoices shall include the Subaward number and certification as to the truth and accuracy of the invoice. The invoiced costs shall be in accordance with the approved budget as attached hereto. Invoices for costs shall be identified by the NDSU Subaward # noted above and submitted to Ann.Young@ndsu.edu or mailed to the following address: Grant and Contract Accounting, NDSU Department 3130, P. O. Box 6050, Fargo, North Dakota 58108-6050.

All invoices must include detailed expenditure reports (such as a detailed general ledger or transaction report). Additionally, copies of actual receipts or other supporting documentation of expenditures may be requested by NDSU at any time. No payment will be made until a review of expenditures is complete.

All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of lack of Recipient receipts (as requested), disallowed costs, unacceptable technical performance reports or an adverse audit finding against the Recipient.

4. Reporting Requirements. Recipient will make periodic progress reports as directed by NDSU and will make a final report of project activities. Recipient will disclose inventions in writing to NDSU and a complete a final invention report within 60 days of termination.
5. Incorporating the Provisions of the Prime Award. The effort being performed under this Subaward is part of the Prime Award, as attached, which is defined as:

Sponsor: Department of Health and Human Services
ACYF – Family and Youth Services Bureau

FAIN: Award No. 90AK0058

CFDA: CFDA #93.092 (ACA - Personal Responsibility Education Program)

Type: This is a Service award and is not a Research and Development award.

The general terms and conditions specified by the Prime Award and provisions are hereby incorporated by reference and take precedence in the case of any inconsistencies with this Subaward with the exception that Recipient must seek all time extensions and any prior approvals needed directly from NDSU.

6. DUNS Number. This Subaward is subject to the requirements of 2 CFR Part 25; as such Recipient is hereby notified that it must provide to NDSU and maintain its Dun & Bradstreet Universal Numbering System (DUNS) number at all times during the Term.
7. Federal Reporting Requirements. NDSU is required to comply with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 amendments thereto (FFATA) which is Public Law 109-282. FFATA requires NDSU to report certain first-tier subcontracts and executive compensation data. The law requires all reported information to be made publically available, including all information reported to NDSU by Recipient. Recipient will fully complete and return the attached **Federal Funding Accountability and Transparency Act (FFATA) Request Form** to NDSU with this Agreement and is incorporated herein. Recipient must notify NDSU immediately if there is any change in Recipient's data as supplied in the FFATA Request Form.
8. Independent Contractor. Recipient herein is an Independent Contractor, not a partner or joint venturer, and shall not act as an agent or employee of NDSU. Recipient shall not have any authority, either express or implied, to enter any agreement, incur any obligations on NDSU's behalf, or commit NDSU in any manner whatsoever without NDSU's express prior written consent.
9. Facilities. Recipient has the facilities and equipment necessary to perform its Scope of Work. Recipient may retain title to any supplies, materials, tools or equipment purchased and/or fabricated by it in its performance of the Scope of Work.
10. Intellectual Property. Subject to the rights of the government, each party shall retain all rights to any invention or other creation developed in its performance of this Subaward or Prime Award, as applicable (hereinafter Inventions). A party may seek intellectual

property, including patents, copyrights, and/or trademarks in any solely owned Inventions, in its own name and at its own expense. Jointly made or generated intellectual property shall be jointly owned by the parties unless otherwise agreed in writing. Recipient shall promptly notify NDSU of any Inventions arising hereunder. With respect to any Invention in which Recipient retains title, NDSU, shall have a nonexclusive, royalty-free right to use such for educational and research purposes.

Recipient grants to NDSU an irrevocable, royalty-free, non-transferable, non-exclusive right to use, reproduce, and make derivative works of any copyrightable material first developed and delivered under this Subaward solely for the purpose of and only to the extent required to meet NDSU's obligations under its Prime Award. Recipient further grants to NDSU the right to use data created in the performance of this Subaward solely for the purpose of and only to the extent required to meet NDSU's obligations under its Prime Award.

11. Liability. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowed by law.

12. Confidential Information.

- A. Close cooperation between NDSU and Recipient personnel in the conduct of this project may require the disclosure by one party (disclosing party) to the other party (receiving party) of certain proprietary information which is hereafter referred to as "Confidential Information." Confidential Information shall be marked as "Confidential" at the time of disclosure to the receiving party. If Confidential Information is disclosed verbally, it shall be identified as confidential at the time of disclosure and later reduced to writing, marked as "Confidential" and provided to receiving party within thirty (30) days after initial disclosure. A receiving party has the right to decline receipt of Confidential Information if they deem it unnecessary to the completion of the project or for any other reason.
- B. A receiving party may use, disclose, or grant use of Confidential Information only for the limited purposes of this project and as required by the Prime Award. A receiving party may not use a disclosing party's Confidential Information for any other purpose without the express written permission of the disclosing party for a period of three years from the expiration of the Term.
- C. Confidential Information is not information which:
 - 1. was already rightfully in the possession of the receiving party prior to the disclosure thereof by the other party;
 - 2. is obtained from a third person who, insofar as is known, is not prohibited from transmitting the information by a contractual, legal or fiduciary obligation;

3. through no act or omission of the receiving party, is or hereafter becomes part of the public domain;
 4. the receiving party can prove was developed independently and not based, in whole or in any part, on any Confidential Information furnished by the other party;
 5. is subject to another agreement between the parties which permits use and/or disclosure; or
 6. is an open record under the laws of North Dakota.
- D. It is further agreed and understood that specific information disclosed shall not be deemed to be available to the public or in any other party's prior possession merely because it is embraced by more general information available to the public or in the other party's possession.
- E. Each party will use at least the same standard of care as it uses to protect its own Confidential Information to ensure that employees, students, interns, agents and consultants do not disclose or make any unauthorized use of disclosing party's Confidential Information. Any employee, student, intern, agent, or consultant of the receiving party must be notified of the restrictions on the use of the disclosing party's Confidential Information and must agree to abide by those restrictions before being allowed access to the Confidential Information. Each party will promptly notify the other upon discovery of any unauthorized use or disclosure of the other party's Confidential Information.
13. Termination. Either party may terminate this Agreement upon thirty days' notice to the other party. NDSU may terminate this Agreement and the performance hereunder in the event of default by Recipient or in the event that the Prime Award is terminated. NDSU will provide written notice to Recipient of termination. Such notice shall be effective upon the receipt of written notice by the Recipient. Recipient shall take all reasonable steps to minimize termination costs.
14. Audit Requirements.
- A. This Agreement is subject to the provisions of the Uniform Guidance, 2 C.F.R. § 200 Uniform Administrative Requirements, Cost Principals and Audit Requirements for Federal Awards, and Recipient agrees to comply with the requirements of 2 C.F.R. § 200.
 - B. Recipient further agrees to provide NDSU with notice of completion of required audits and any adverse findings which impact this Subaward by required by parts 200.501-200.521; provide access to records as required by parts 200.336, 200.337 and 200.201 as applicable; and take such other corrective action as deemed appropriate by NDSU.
 - C. Financial reports, supporting documents and other records pertinent to this Subaward shall be retained by the Recipient for a period of three (3) years from the date of final expenditure report; except that records that relate to audits, appeals, litigation or the

settlement of claims arising out of performance of this Subaward shall be retained until such audits appeals, litigation or claims have been resolved and final action taken.

- D. Recipient shall permit independent auditors to have access to the records and financial statements as necessary to comply with this Subaward.

15. Certification.

- A. Acceptance of this Subaward constitutes certification that the Recipient is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this project by any Federal department or agency.
- B. Acceptance of this Subaward constitutes certification that the Recipient is not delinquent on any Federal debt.
- C. Acceptance of this Subaward constitutes certification that to the best of the Recipient's knowledge and belief:
 - 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 2. If funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Recipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," to NDSU in accordance with its instructions.
- D. Should NDSU approve further subawards, Recipient will require that the language of this certification be included in the award documents of all subawards at all tiers (including subawards, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

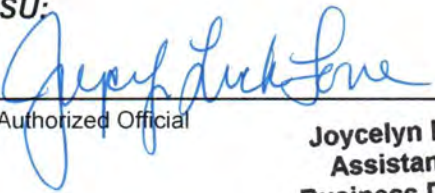
The Recipient agrees to notify NDSU immediately if there is any change of status in A., B., C., or D. above.

14. Miscellaneous Provisions.

- A. All notices, demands, payments and other communications required to be given or made hereunder shall be in writing and shall be duly given if delivered by hand or if mailed by certified or registered mail, first class postage prepaid, and shall be effectively received upon the date of such delivery or two (2) days after such mailing, to the respective parties hereto at the addresses set forth below their signatures below, or to such other address as NDSU or Recipient shall provide to each other in writing. "Notice" herein shall not include notice of claims for money damages or other legal proceeding against NDSU or the State of North Dakota, which shall instead be governed by applicable law.
- B. This Subaward will be binding on the successors and permitted assigns of the parties hereto.
- C. This Subaward may be executed in multiple original copies, each of which shall be deemed an original and all of which taken together shall be one and the same Subaward.
- D. This Subaward cannot be changed or modified except by a written agreement signed by an authorized representative of each party.
- E. No waiver of any breach of any term or provision of this Subaward shall be binding unless in writing and signed by the party waiving the breach.
- F. The captions contained in this Subaward are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provisions hereof.
- G. In the event one or more of the provisions of this Agreement are declared invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SUBAWARD APPROVAL:

NDSU:

By 
Authorized Official

**Joycelyn Lucke Love
Assistant Director
Business Development**

Date Dec 14, 2020

Recipient:

By Lauren D Gilchrist
Authorized Official

Date 1/4/2021

Title EVP of External Affairs

DUNS: 040965196

PPMNS PROPOSED BUDGET	NCC
A. PERSONNEL	93,182
.5 FTE Katie Christensen - Regional E&O Manager	27,662
.75FTE Programs Manager	34,320
.75 FTE Specialist	31,200
B. FRINGE	19,568
2.00 FTE	19,568
C. TRAVEL	7,500
Mileage and local travel for two E&O staff	1,800
Travel expenses for HG site visits and trainings	1,500
Travel expenses for ROTO educators (\$800 for Circle of Nations; \$400 for LSS group)	1,200
Travel to PREP regional grantee meetings (2 staff members)	3,000
D. SUPPLIES	
Project specific supplies	
E. OTHER	20,570
<i>Printing</i>	1200
Printing for SHARP, ROTO, & training materials	
<i>Postage and Shipping</i>	250
Postage and shipping expenses	
<i>Meeting expenses</i>	5,800
Food and beverages for youth programming (\$800/ROTO x 6; \$75/SHARP X 4) and adult programming (\$400)	5,500
ROTO Guest Speaker Fees (\$50 x 6)	300
<i>Program Supplies</i>	9,796
Literature for SHARP & ROTO groups (brochures)	600
Promotion items for ROTO/SHARP participants (i.e. water bottles)	900
Gift cards posttest completion (\$25 x 60 ROTO participants)	1500
Teaching supplies for SHARP and ROTO PPMNS Groups	3,000
Teaching supplies for MPC & SHARP groups by partners	900
Condoms and safer sex supplies	2,500
Supplies for adult EBI	396
<i>Telephone & MIS</i>	3,024
MIS (\$132/mo. x 1 staff)	1,584
PREP project-specific smart phone service	1440
<i>Safe Spaces for Teachers</i>	<u>500</u>

SUB-TOTAL	140,820
Indirect rate 19.34% per Federally Approved Indirect Rate	27,235
TOTAL SUBCONTRACT	\$168,054

Subcontract Budget Narrative

Personnel (\$93,182)

Regional Education & Outreach Manager, Kathrine Christensen, 0.5 FTE (\$27,662). Ms. Christensen will provide training in delivery of the EBP's to other entities throughout the state. Ms. Christensen will provide management and guidance to ensure that programs are implemented with fidelity to the PPMNS educational model. In addition, she will provide support and training for the Programs Manager and Specialist.

Programs Manager, Danielle Halvorson, .75 FTE (\$34,320) Ms. Halvorson will co-facilitate the proposed programs in the Fargo, ND area. She will conduct program delivery activities, such as recruiting program participants, preparing and delivering lesson plans in collaboration with the E&O Manager, and establishing and maintaining relationships with youth-serving community organizations.

Education and Outreach Specialist, Amanda Strauss .75 FTE (\$31,200). M. Strauss will co-facilitate the proposed programs in the Fargo, ND area. She will conduct program delivery activities, such as preparing and delivering lesson plans in collaboration with Programs Manager, and establishing and maintaining relationships with youth-serving community organizations.

Fringe Benefits (\$19,568)

Katie Christensen (.50 FTE) (21%) = \$5,809

Danielle Halvorson (.75 FTE) 21%) = \$7,207

Amanda Strauss (.75 FTE) (21%) = \$6,552

Fringe Benefit Calculations for full-time and part-time employees:

- Insurance = 10.68%
- FICA = \$6.69%
- Retirement = \$3.63%

Travel (\$3,000)

Regional PREP Grantee Meetings and Topical training (2 staff members = \$3,000). Travel costs include: airfare depending on location (\$1,500), lodging (\$1,000) and per diem (\$500) using current federal rates for two meetings.

Other (\$24,074)

E&O Staff (\$1,800). To cover travel related costs, including parking, site visit mileage, and mileage for miscellaneous travel related to programming.

Travel Expenses for Healthiest Generation related site visits and trainings (\$1,500). To cover the cost of travel to conduct site visits and trainings for partners, includes mileage, food, and hotel costs.

Travel Expenses for ROTO Educators to conduct ROTO groups (\$1,200) To cover the cost of travel to conduct ROTO groups (\$800 for Circle of Nations; \$400 for LSS group).

Printing for group related materials (\$1,200). To be used to print materials for groups, such as curriculum activities, brochures for peer education, and pictures. Estimated at \$800 for ROTO, \$200 for SHARP, and \$200 for EBI trainings.

Postage & Shipping (\$250). Annual cost of postage & shipping estimated at \$20.83 per month x 12 months = \$250.

Meeting Expenses (\$5800)

- Food & Beverage for Program & Training Participants: \$800 x 6 ROTO groups = approx. \$4,800; \$75 x 4 SHARP groups = \$300; \$400 for adult trainings). To purchase food (such as pizza), beverages, and plates, napkins, etc. for each program session. Because our programs will meet during the dinner hour and targets high-risk, vulnerable youth, providing food will provide incentive for the youth to attend the sessions. Attendance at all sessions is critical to effectiveness of the implementation of the proposed program. The program education trainings for adult staff will be full days and will require a meal to be served.
- ROTO Guest Speaker Fees: \$50 fees for one guest speakers per ROTO group. \$50 x 6 groups = \$300.

Program Supplies (\$9,000)

- Literature for SHARP & ROTO groups (\$600). We will purchase additional printed materials (brochures) to be used in ROTO & SHARP groups, plus peer education resources manuals for youth to use while peer educating.
- Promotion items for youth (\$900). We will purchase t-shirts, water bottles, key chains or other items to be used as promotional items for ROTO/SHARP group programs.
- ROTO Gift Cards for Posttest Survey Completion (\$25 x 60 participants = \$1500). Youth who complete the posttest will receive a gift card.
- Teaching Supplies for SHARP & ROTO PPMNS (\$3,000). ROTO teaching supplies = \$2600, including items such as markers, incentives, materials for activities and games, etc. SHARP program supplies = \$400.
- Teaching supplies for MPC & SHARP groups by partners (\$900) to purchase supplies (i.e. markers, wall post-its, etc.) for our partners to use while implementing the EBIs.
- Condom and Safer Sex Supplies (\$2,500). We will purchase safer sex supplies such as condoms and female condoms for PPMNS and partner groups.
- Supplies for Adult EBI Training (\$396) We will purchase supplies to be used in the trainings such as markers, post-it notes, etc.

Telephone service and MIS related expenses (\$3,024)

- Management Information Systems (MIS = \$1,584). \$132/month per one employee 12 months). To provide access to the PPMNS' Information Technology and Communication Systems for K. Christensen.
- Cellphone service stipend for 2 educators (\$1,440). To provide service for a project specific phones for two staff, estimated at \$60 per month.

Safe Spaces for Teachers, \$500. Funds to provide training for teachers, staff, counselors, etc in the school system. Funds will cover meeting location, food, supplies, etc.

Indirect Charges (\$28,230)

The indirect charges were calculated using PPMNS' federally negotiated rate of 20.19%. Indirect charges apply to all direct costs incurred by PPMNS (\$28,230).

Response to Item No. 4: The C-PREP grant is awarded from the U.S. Department of Health and Human Services to NDSU. A portion of the funds pays a subawardee, Planned Parenthood of Minnesota North Dakota and South Dakota, to provide educational services. The grant has gone through a variety of administrative/legal review processes. Preliminarily, it was vetted through the normal grant review process at NDSU. As part of that process, it was reviewed by the North Dakota Department of Commerce. Please see **Exhibit A**.

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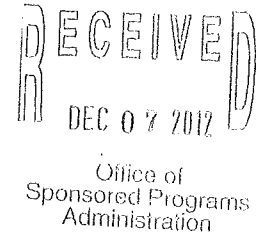
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As indicated, a variety of entities have reviewed legal issues of the grant under North Dakota law. However, NDSU is unaware of any written legal opinion or recommendation specifically considering N.D.C.C. 14-02.3-01.



December 5, 2012

Marie Slanger
NDSU Office of Sponsored Programs Admin.
Dept. 4000, PO Box 6050
Fargo, ND 58108-6050



"Letter of Clearance" In Conformance with the North Dakota Federal Program Review System -
State Application Identifier No.: ND121205-0445

Dear Ms. Slanger:

SUBJECT: ACA Personal Responsibility Program Grant - PREP: Making Healthy Choices

The above referenced application has been reviewed through the North Dakota Federal Program Review Process. As a result of the review, clearance is given to the project only with respect to this consultation process.

If the proposed project changes in duration, scope, description, budget, location or area of impact, from the project description submitted for review, then it is necessary to submit a copy of the completed application to this office for further review.

We also request the opportunity for complete review of applications for renewal or continuation grants within one year after the date of this letter.

Please use the above SAI number for reference to the above project with this office. Your continued cooperation in the review process is much appreciated.

Sincerely,

James R. Boyd
Manager of Governmental Services
Division of Community Services

jml

From: [Tim Flakoll](#)
To: kkoppelman@nd.gov; [Boehning, Randy G.](#); [Belter, Wesley R.](#); pete.silbernagel@truenorthsteel.com; [Lee, Gary A.](#); [Lee, Judy E.](#); [Wieland, Alon C.](#); [Koppelman, Ben](#); [Beadle, Thomas R.](#); [Berry, Spencer D.](#); alcarlson2010@hotmail.com; bbgrande@gmail.com; [Grindberg, Tony S.](#); [Thoreson, Blair](#); tim.flakoll@gmail.com; [Hawken, Kathy K.](#); [Kasper, Jim M.](#); laura.mcdaniel@ndsu.edu
Subject: House Bill No. 1229
Date: Friday, January 4, 2013 1:08:23 PM

Recently I have read some emails related to a federal grant received by NDSU.

I asked Anita Thomas, the attorney from Legislative Council who handles education issues to review the grant and if the grant goes counter to the intent of HB 1229 from the 2011 session or other sections of North Dakota law.

As some of you may remember, HB 1229 was before both the House and Senate Education committees during the 2011 session.

See her response below.

Senator Tim Flakoll
Chair, Senate Education Committee

From: Thomas, Anita
Sent: Friday, January 04, 2013 9:21 AM
To: Flakoll, Tim
Subject: House Bill No. 1229

Senator Flakoll:

2011 House Bill No. 1229 explicitly stated "each school district and nonpublic school shall ensure that the portion of its health curriculum which is related to sexual health *includes* instruction pertaining to the risks associated with adolescent sexual activity and the social, psychological, and physical health gains to be realized by abstaining from sexual activity before and outside of marriage."

The legislation required the "inclusion" of the listed topics. It did not limit a health curriculum to only those topics. It also did not specify the amount of time or the percentage of the curriculum that must be devoted to the listed topics.

The information you provided on the proposed project, PREP: Making Healthy Choices,

indicates that youth from high-risk contexts will be recruited to "voluntarily participate in community-based educational groups." I could find nothing in the material indicating that the program is intended to be a substitute for a K-12 health curriculum and nothing indicating that it is a school or school district-based program.

From the information you forwarded, it does not appear that there would be a conflict with the provisions of 2011 House Bill No. 1229. (The bill has been codified as NDCC section 15.1-21-24.)

L. Anita Thomas, J.D., LL.M.

[\(701\) 328-2916](tel:7013282916) main office

[\(701\) 328-4235](tel:7013284235) direct line

[\(701\) 226-3143](tel:7012263143) cell phone

NDSU SUBAWARD #FAR0033987

This Subaward is between **Planned Parenthood Minnesota, North Dakota, South Dakota** (hereinafter "Recipient"), and **North Dakota State University** (hereinafter "NDSU").

NDSU and Recipient, intending to be legally bound, hereby agree as follows:

1. Scope of Work. The Recipient will undertake the work set forth in its proposal submitted in support of the project entitled "Personal Responsibility Education Program (PREP): Making Healthy Choices", including the following tasks:
 - a) Supply program and curriculum materials;
 - b) Recruit for and facilitate community sexual health education programs with high-risk, vulnerable youth;
 - c) Assist with program evaluation efforts and overall project design and implementation;
 - d) Recruit program delivery partners; and
 - e) Provide training and technical support for the program delivery partners.

2. Term. The Term of this Subaward is from September 30, 2020 through September 29, 2021.

3. Allowable Costs and Payments. In its performance of the Scope of Work, the Recipient may incur costs up to \$168,054.00 during the Term. NDSU will reimburse the Recipient for allowable costs after receipt of Recipient's standard invoice. Recipient shall submit invoices at least quarterly, but no more frequently than monthly. The final invoice shall be submitted within 45 days after the period of performance ends and marked "FINAL". All invoices shall include the Subaward number and certification as to the truth and accuracy of the invoice. The invoiced costs shall be in accordance with the approved budget as attached hereto. Invoices for costs shall be identified by the NDSU Subaward # noted above and submitted to Ann.Young@ndsu.edu or mailed to the following address: Grant and Contract Accounting, NDSU Department 3130, P. O. Box 6050, Fargo, North Dakota 58108-6050.

All invoices must include detailed expenditure reports (such as a detailed general ledger or transaction report). Additionally, copies of actual receipts or other supporting documentation of expenditures may be requested by NDSU at any time. No payment will be made until a review of expenditures is complete.

All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of lack of Recipient receipts (as requested), disallowed costs, unacceptable technical performance reports or an adverse audit finding against the Recipient.

4. Reporting Requirements. Recipient will make periodic progress reports as directed by NDSU and will make a final report of project activities. Recipient will disclose inventions in writing to NDSU and a complete a final invention report within 60 days of termination.
5. Incorporating the Provisions of the Prime Award. The effort being performed under this Subaward is part of the Prime Award, as attached, which is defined as:

Sponsor: Department of Health and Human Services
ACYF – Family and Youth Services Bureau

FAIN: Award No. 90AK0058

CFDA: CFDA #93.092 (ACA - Personal Responsibility Education Program)

Type: This is a Service award and is not a Research and Development award.

The general terms and conditions specified by the Prime Award and provisions are hereby incorporated by reference and take precedence in the case of any inconsistencies with this Subaward with the exception that Recipient must seek all time extensions and any prior approvals needed directly from NDSU.

6. DUNS Number. This Subaward is subject to the requirements of 2 CFR Part 25; as such Recipient is hereby notified that it must provide to NDSU and maintain its Dun & Bradstreet Universal Numbering System (DUNS) number at all times during the Term.
7. Federal Reporting Requirements. NDSU is required to comply with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 amendments thereto (FFATA) which is Public Law 109-282. FFATA requires NDSU to report certain first-tier subcontracts and executive compensation data. The law requires all reported information to be made publically available, including all information reported to NDSU by Recipient. Recipient will fully complete and return the attached **Federal Funding Accountability and Transparency Act (FFATA) Request Form** to NDSU with this Agreement and is incorporated herein. Recipient must notify NDSU immediately if there is any change in Recipient's data as supplied in the FFATA Request Form.
8. Independent Contractor. Recipient herein is an Independent Contractor, not a partner or joint venturer, and shall not act as an agent or employee of NDSU. Recipient shall not have any authority, either express or implied, to enter any agreement, incur any obligations on NDSU's behalf, or commit NDSU in any manner whatsoever without NDSU's express prior written consent.
9. Facilities. Recipient has the facilities and equipment necessary to perform its Scope of Work. Recipient may retain title to any supplies, materials, tools or equipment purchased and/or fabricated by it in its performance of the Scope of Work.
10. Intellectual Property. Subject to the rights of the government, each party shall retain all rights to any invention or other creation developed in its performance of this Subaward or Prime Award, as applicable (hereinafter Inventions). A party may seek intellectual

property, including patents, copyrights, and/or trademarks in any solely owned Inventions, in its own name and at its own expense. Jointly made or generated intellectual property shall be jointly owned by the parties unless otherwise agreed in writing. Recipient shall promptly notify NDSU of any Inventions arising hereunder. With respect to any Invention in which Recipient retains title, NDSU, shall have a nonexclusive, royalty-free right to use such for educational and research purposes.

Recipient grants to NDSU an irrevocable, royalty-free, non-transferable, non-exclusive right to use, reproduce, and make derivative works of any copyrightable material first developed and delivered under this Subaward solely for the purpose of and only to the extent required to meet NDSU's obligations under its Prime Award. Recipient further grants to NDSU the right to use data created in the performance of this Subaward solely for the purpose of and only to the extent required to meet NDSU's obligations under its Prime Award.

11. Liability. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowed by law.

12. Confidential Information.

- A. Close cooperation between NDSU and Recipient personnel in the conduct of this project may require the disclosure by one party (disclosing party) to the other party (receiving party) of certain proprietary information which is hereafter referred to as "Confidential Information." Confidential Information shall be marked as "Confidential" at the time of disclosure to the receiving party. If Confidential Information is disclosed verbally, it shall be identified as confidential at the time of disclosure and later reduced to writing, marked as "Confidential" and provided to receiving party within thirty (30) days after initial disclosure. A receiving party has the right to decline receipt of Confidential Information if they deem it unnecessary to the completion of the project or for any other reason.
- B. A receiving party may use, disclose, or grant use of Confidential Information only for the limited purposes of this project and as required by the Prime Award. A receiving party may not use a disclosing party's Confidential Information for any other purpose without the express written permission of the disclosing party for a period of three years from the expiration of the Term.
- C. Confidential Information is not information which:
 - 1. was already rightfully in the possession of the receiving party prior to the disclosure thereof by the other party;
 - 2. is obtained from a third person who, insofar as is known, is not prohibited from transmitting the information by a contractual, legal or fiduciary obligation;

3. through no act or omission of the receiving party, is or hereafter becomes part of the public domain;
 4. the receiving party can prove was developed independently and not based, in whole or in any part, on any Confidential Information furnished by the other party;
 5. is subject to another agreement between the parties which permits use and/or disclosure; or
 6. is an open record under the laws of North Dakota.
- D. It is further agreed and understood that specific information disclosed shall not be deemed to be available to the public or in any other party's prior possession merely because it is embraced by more general information available to the public or in the other party's possession.
- E. Each party will use at least the same standard of care as it uses to protect its own Confidential Information to ensure that employees, students, interns, agents and consultants do not disclose or make any unauthorized use of disclosing party's Confidential Information. Any employee, student, intern, agent, or consultant of the receiving party must be notified of the restrictions on the use of the disclosing party's Confidential Information and must agree to abide by those restrictions before being allowed access to the Confidential Information. Each party will promptly notify the other upon discovery of any unauthorized use or disclosure of the other party's Confidential Information.
13. Termination. Either party may terminate this Agreement upon thirty days' notice to the other party. NDSU may terminate this Agreement and the performance hereunder in the event of default by Recipient or in the event that the Prime Award is terminated. NDSU will provide written notice to Recipient of termination. Such notice shall be effective upon the receipt of written notice by the Recipient. Recipient shall take all reasonable steps to minimize termination costs.
14. Audit Requirements.
- A. This Agreement is subject to the provisions of the Uniform Guidance, 2 C.F.R. § 200 Uniform Administrative Requirements, Cost Principals and Audit Requirements for Federal Awards, and Recipient agrees to comply with the requirements of 2 C.F.R. § 200.
 - B. Recipient further agrees to provide NDSU with notice of completion of required audits and any adverse findings which impact this Subaward by required by parts 200.501-200.521; provide access to records as required by parts 200.336, 200.337 and 200.201 as applicable; and take such other corrective action as deemed appropriate by NDSU.
 - C. Financial reports, supporting documents and other records pertinent to this Subaward shall be retained by the Recipient for a period of three (3) years from the date of final expenditure report; except that records that relate to audits, appeals, litigation or the

settlement of claims arising out of performance of this Subaward shall be retained until such audits appeals, litigation or claims have been resolved and final action taken.

- D. Recipient shall permit independent auditors to have access to the records and financial statements as necessary to comply with this Subaward.

15. Certification.

- A. Acceptance of this Subaward constitutes certification that the Recipient is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this project by any Federal department or agency.
- B. Acceptance of this Subaward constitutes certification that the Recipient is not delinquent on any Federal debt.
- C. Acceptance of this Subaward constitutes certification that to the best of the Recipient's knowledge and belief:
 - 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 2. If funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Recipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," to NDSU in accordance with its instructions.
- D. Should NDSU approve further subawards, Recipient will require that the language of this certification be included in the award documents of all subawards at all tiers (including subawards, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

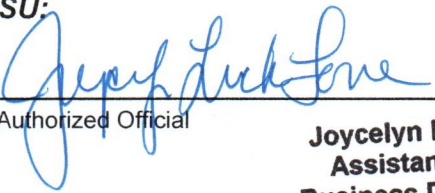
The Recipient agrees to notify NDSU immediately if there is any change of status in A., B., C., or D. above.

14. Miscellaneous Provisions.

- A. All notices, demands, payments and other communications required to be given or made hereunder shall be in writing and shall be duly given if delivered by hand or if mailed by certified or registered mail, first class postage prepaid, and shall be effectively received upon the date of such delivery or two (2) days after such mailing, to the respective parties hereto at the addresses set forth below their signatures below, or to such other address as NDSU or Recipient shall provide to each other in writing. "Notice" herein shall not include notice of claims for money damages or other legal proceeding against NDSU or the State of North Dakota, which shall instead be governed by applicable law.
- B. This Subaward will be binding on the successors and permitted assigns of the parties hereto.
- C. This Subaward may be executed in multiple original copies, each of which shall be deemed an original and all of which taken together shall be one and the same Subaward.
- D. This Subaward cannot be changed or modified except by a written agreement signed by an authorized representative of each party.
- E. No waiver of any breach of any term or provision of this Subaward shall be binding unless in writing and signed by the party waiving the breach.
- F. The captions contained in this Subaward are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provisions hereof.
- G. In the event one or more of the provisions of this Agreement are declared invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SUBAWARD APPROVAL:

NDSU:

By 
Authorized Official

**Joycelyn Lucke Love
Assistant Director
Business Development**

Date Dec 14, 2020

Recipient:

By Lauren D Gilchrist
Authorized Official

Date 1/4/2021

Title EVP of External Affairs

DUNS: 040965196

PPMNS PROPOSED BUDGET**NCC**

A. PERSONNEL	93,182
.5 FTE Katie Christensen - Regional E&O Manager	27,662
.75FTE Programs Manager	34,320
.75 FTE Specialist	31,200
B. FRINGE	19,568
2.00 FTE	19,568
C. TRAVEL	7,500
Mileage and local travel for two E&O staff	1,800
Travel expenses for HG site visits and trainings	1,500
Travel expenses for ROTO educators (\$800 for Circle of Nations; \$400 for LSS group)	1,200
Travel to PREP regional grantee meetings (2 staff members)	3,000
D. SUPPLIES	
Project specific supplies	
E. OTHER	20,570
<i>Printing</i>	1200
Printing for SHARP, ROTO, & training materials	
<i>Postage and Shipping</i>	250
Postage and shipping expenses	
<i>Meeting expenses</i>	5,800
Food and beverages for youth programming (\$800/ROTO x 6; \$75/SHARP X 4) and adult programming (\$400)	5,500
ROTO Guest Speaker Fees (\$50 x 6)	300
<i>Program Supplies</i>	9,796
Literature for SHARP & ROTO groups (brochures)	600
Promotion items for ROTO/SHARP participants (i.e. water bottles)	900
Gift cards posttest completion (\$25 x 60 ROTO participants)	1500
Teaching supplies for SHARP and ROTO PPMNS Groups	3,000
Teaching supplies for MPC & SHARP groups by partners	900
Condoms and safer sex supplies	2,500
Supplies for adult EBI	396
<i>Telephone & MIS</i>	3,024
MIS (\$132/mo. x 1 staff)	1,584
PREP project-specific smart phone service	1440
<i>Safe Spaces for Teachers</i>	<u>500</u>

SUB-TOTAL	140,820
Indirect rate 19.34% per Federally Approved Indirect Rate	27,235
TOTAL SUBCONTRACT	\$168,054

Subcontract Budget Narrative

Personnel (\$93,182)

Regional Education & Outreach Manager, Kathrine Christensen, 0.5 FTE (\$27,662). Ms. Christensen will provide training in delivery of the EBP's to other entities throughout the state. Ms. Christensen will provide management and guidance to ensure that programs are implemented with fidelity to the PPMNS educational model. In addition, she will provide support and training for the Programs Manager and Specialist.

Programs Manager, Danielle Halvorson, .75 FTE (\$34,320) Ms. Halvorson will co-facilitate the proposed programs in the Fargo, ND area. She will conduct program delivery activities, such as recruiting program participants, preparing and delivering lesson plans in collaboration with the E&O Manager, and establishing and maintaining relationships with youth-serving community organizations.

Education and Outreach Specialist, Amanda Strauss .75 FTE (\$31,200). M. Strauss will co-facilitate the proposed programs in the Fargo, ND area. She will conduct program delivery activities, such as preparing and delivering lesson plans in collaboration with Programs Manager, and establishing and maintaining relationships with youth-serving community organizations.

Fringe Benefits (\$19,568)

Katie Christensen (.50 FTE) (21%) = \$5,809

Danielle Halvorson (.75 FTE) 21%) = \$7,207

Amanda Strauss (.75 FTE) (21%) = \$6,552

Fringe Benefit Calculations for full-time and part-time employees:

- Insurance = 10.68%
- FICA = \$6.69%
- Retirement = \$3.63%

Travel (\$3,000)

Regional PREP Grantee Meetings and Topical training (2 staff members = \$3,000). Travel costs include: airfare depending on location (\$1,500), lodging (\$1,000) and per diem (\$500) using current federal rates for two meetings.

Other (\$24,074)

E&O Staff (\$1,800). To cover travel related costs, including parking, site visit mileage, and mileage for miscellaneous travel related to programming.

Travel Expenses for Healthiest Generation related site visits and trainings (\$1,500). To cover the cost of travel to conduct site visits and trainings for partners, includes mileage, food, and hotel costs.

Travel Expenses for ROTO Educators to conduct ROTO groups (\$1,200) To cover the cost of travel to conduct ROTO groups (\$800 for Circle of Nations; \$400 for LSS group).

Printing for group related materials (\$1,200). To be used to print materials for groups, such as curriculum activities, brochures for peer education, and pictures. Estimated at \$800 for ROTO, \$200 for SHARP, and \$200 for EBI trainings.

Postage & Shipping (\$250). Annual cost of postage & shipping estimated at \$20.83 per month x 12 months = \$250.

Meeting Expenses (\$5800)

- Food & Beverage for Program & Training Participants: \$800 x 6 ROTO groups = approx. \$4,800; \$75 x 4 SHARP groups = \$300; \$400 for adult trainings). To purchase food (such as pizza), beverages, and plates, napkins, etc. for each program session. Because our programs will meet during the dinner hour and targets high-risk, vulnerable youth, providing food will provide incentive for the youth to attend the sessions. Attendance at all sessions is critical to effectiveness of the implementation of the proposed program. The program education trainings for adult staff will be full days and will require a meal to be served.
- ROTO Guest Speaker Fees: \$50 fees for one guest speakers per ROTO group. \$50 x 6 groups = \$300.

Program Supplies (\$9,000)

- Literature for SHARP & ROTO groups (\$600). We will purchase additional printed materials (brochures) to be used in ROTO & SHARP groups, plus peer education resources manuals for youth to use while peer educating.
- Promotion items for youth (\$900). We will purchase t-shirts, water bottles, key chains or other items to be used as promotional items for ROTO/SHARP group programs.
- ROTO Gift Cards for Posttest Survey Completion (\$25 x 60 participants = \$1500). Youth who complete the posttest will receive a gift card.
- Teaching Supplies for SHARP & ROTO PPMNS (\$3,000). ROTO teaching supplies = \$2600, including items such as markers, incentives, materials for activities and games, etc. SHARP program supplies = \$400.
- Teaching supplies for MPC & SHARP groups by partners (\$900) to purchase supplies (i.e. markers, wall post-its, etc.) for our partners to use while implementing the EBIs.
- Condom and Safer Sex Supplies (\$2,500). We will purchase safer sex supplies such as condoms and female condoms for PPNCS and partner groups.
- Supplies for Adult EBI Training (\$396) We will purchase supplies to be used in the trainings such as markers, post-it notes, etc.

Telephone service and MIS related expenses (\$3,024)

- Management Information Systems (MIS = \$1,584). \$132/month per one employee 12 months). To provide access to the PPMNS' Information Technology and Communication Systems for K. Christensen.
- Cellphone service stipend for 2 educators (\$1,440). To provide service for a project specific phones for two staff, estimated at \$60 per month.

Safe Spaces for Teachers, \$500. Funds to provide training for teachers, staff, counselors, etc in the school system. Funds will cover meeting location, food, supplies, etc.

Indirect Charges (\$28,230)

The indirect charges were calculated using PPMNS' federally negotiated rate of 20.19%. Indirect charges apply to all direct costs incurred by PPMNS (\$28,230).

***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

If the committee decides to move amendment .04005 forward, the NDUS asks that you consider an amendment to help further narrow the language to Planned Parenthood and minimize the potential impact to nursing and other medical programs.

In Sect. 1 (3), please consider adding the words "... an organization for the specific purpose of educating adolescents ..."

Tammy
I'll gla

Sent from my iPhone

Schatz, Mike A.

Sent: Linda Thorson, CWA State Director <ndcwfa@gmail.com>
To: Tuesday, March 23, 2021 10:10 PM
Subject: Schatz, Mike A.; Myrdal, Janne; ChristopherDodson; Mark Jorritsma
Direct Links from NDSU to Planned Parenthood

***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Dear Representative Schatz and Senator Myrdal,
I am in Bismarck tonight and don't have the information about the past connection between NDSU and Planned Parenthood with me.

From the NDSU Distance and Continuing Education Website: NDSU is offering to K-12 grade teachers August 16, 17,2021 [NDSU: Distance & Continuing Education \(DCE\): K-12 Professionals: Classes: Safe Spaces for Teachers](#)

The instructor is Katie Christensen. The description from the course, "Katie received her M.S. in Human Development & Family Science from North Dakota State University and she earned her B.S. in Education from University of Central Missouri, Warrensburg, MO. Katie is the State Director of External Affairs, Planned Parenthood, North Central States".

Materials recommended for children includes, **It's Perfectly Normal by Robbie Harris**. The book for elementary-aged children contains graphic drawings of female and male anatomy and covers topics such as sexual intercourse (vaginal, oral, and anal sex), abortion and homosexuality.
Book Review: [IT'S PERFECTLY NORMAL | Kirkus Reviews](#)

Course Information found on the NDSU Distance and Continuing Education Website:
Instructor: [Katie Christensen](#)
Monday, August 16, 2021 - Tuesday, August 17, 2021
Meet Monday & Tuesday {8:00 a.m. - 4:00 p.m.} with course completion August 20, 2021
Location: To Be Arranged, Fargo, ND
Academic Level: K-12 Professional Development
NDSU Credit Fee: \$55

Sincerely,
Linda Thorson, Concerned Women for America, State Director
For Concerned Women For America Legislative Action Committee
"Whoever welcomes one of these little children in My name welcomes Me..." Mark 9:37



2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division
Prairie Room, State Capitol

SB 2030
3/25/2021 pm
House Appropriations Committee - Education and Environment

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Chairman David Monson called the meeting to order at 2:45 p.m.

Representative	Present	Absent
Chairman Monson	P	
Vice Chairman Schmidt	P	
Representative Martinson	P	
Representative Nathe	P	
Representative Sanford	P	
Representative Schatz	P	
Representative Boe	P	

Discussion Topics:

- Planned Parenthood

Jane Schuh (2:46 p.m.) testified neutrally.

Bruce Bollinger (2:58 p.m.) testified neutrally.

Dr. Molly Secor-Turner (3:08 p.m.) testified neutrally.

Chairman David Monson adjourned the meeting at 3:16 p.m.

Klarissa Pudwill, Committee Clerk

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division
Prairie Room, State Capitol

SB 2030
3/26/2021

House Appropriations Committee - Education and Environment

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Chairman David Monson called the meeting to order at 8:29 a.m.

Representative	Present	Absent
Chairman Monson	P	
Vice Chairman Schmidt	P	
Representative Martinson	P	
Representative Nathe	P	
Representative Sanford	P	
Representative Schatz	P	
Representative Boe	P	

Discussion Topics:

- Planned Parenthood

Alex Cronquist (8:40 a.m.) explained a proposed amendment. Testimony #10855

Dean Bresciani (8:41 a.m.) testified neutrally.

Dr. Molly Secor-Turner (8:42 a.m.) testified neutrally.

Chairman David Monson adjourned the meeting at 10:32 a.m.

Klarissa Pudwill, Committee Clerk

21.0144.04004
Title.

Prepared by the Legislative Council staff for
Representative Monson
March 23, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 2, remove "to create and enact paragraph 3 of"

Page 1, remove lines 3 through 7

Page 1, line 8, replace "of section 15-10-49" with "and to amend and reenact subsection 1 of section 15-10-48"

Page 1, line 12, replace "\$21,500,000" with "\$9,650,000"

Page 1, remove lines 17 through 24

Page 2, remove lines 1 through 31

Page 3, replace lines 1 through 15 with:

"SECTION 2. AMENDMENT. Subsection 1 of section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Subject to legislative appropriations, each biennium during the period beginning July first of each odd-numbered year and ending December thirty-first of each even-numbered year, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of the university of North Dakota and North Dakota state university for projects dedicated exclusively to the advancement of academics.
- b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least fifty thousand dollars in cash or monetary pledges for a qualifying project; ~~and~~
 - (2) The project has been approved by the grant review committee established in section 15-10-51; and
 - (3) The institution does not provide a federal grant subaward to or partner with an organization for the specific purpose of the education of adolescents and young adults on abstinence and contraception to prevent pregnancy and sexually transmitted infections if that organization performs or promotes the performance of an abortion, unless the abortion is necessary to prevent the death of the woman.
- c. The board may award up to one million seven hundred thousand dollars in matching grants to each institution.
- d. Projects at the university of North Dakota school of medicine and health sciences are not eligible to receive a grant under this section."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment removes the language adding the University of Jamestown and the University of Mary to the higher education challenge grant program and reduces the appropriation for the program from \$21,500,000 to \$9,650,000 from the general fund, the same amount as provided for the 2019-21 biennium. This amendment also amends language relating to institution eligibility for the program to require that institutions not provide a federal grant subaward to or partner with an organization for family planning education if that organization performs or promotes the performance of an abortion.

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division
Prairie Room, State Capitol

SB 2030
3/29/2021

House Appropriations Committee - Education and Environment

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Chairman David Monson called the meeting to order at 11:01 a.m.

Representative	Present	Absent
Chairman Monson	P	
Vice Chairman Schmidt	P	
Representative Martinson	P	
Representative Nathe	P	
Representative Sanford	P	
Representative Schatz	P	
Representative Boe	P	

Discussion Topics:

- Statement from NDSU
- Planned Parenthood

Representative Schatz (11:02 a.m.) explained his proposed amendment 21.0144.04006.
Testimony #10944

Dean Bresciani (11:03 a.m.) testified neutrally. Testimony #10945

Margaret Fitzgerald (11:11 a.m.) testified neutrally.

Chairman David Monson adjourned the meeting at 11:47 a.m.

Klarissa Pudwill, Committee Clerk

21.0144.04006

THIRD ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2030

Introduced by

Legislative Management

(Higher Education Committee)

1 A BILL for an Act to provide an appropriation to the state board of higher education for the
 2 higher education challenge matching grant program; to create and enact paragraph 3 of
 3 subdivision b of subsection 1 of section 15-10-48 and paragraph 3 of subdivision b of
 4 subsection 1 of section 15-10-49 of the North Dakota Century Code, relating to institution
 5 eligibility for a matching grant for the advancement of academics; ~~and~~ to amend and reenact
 6 subdivision c of subsection 1 of section 15-10-48, subdivision a of subsection 1 of section
 7 15-10-49, subdivision c of subsection 1 of section 15-10-49, and subdivision a of subsection 2
 8 of section 15-10-49 of the North Dakota Century Code, relating to matching grants for the
 9 advancement of academics; and to provide a penalty.

10 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

11 **SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the general
 12 fund in the state treasury, not otherwise appropriated, the sum of ~~\$21,500,000~~\$9,650,000, or so
 13 much of the sum as may be necessary, to the state board of higher education for the purpose of
 14 awarding matching grants for student scholarships and the advancement of academics at
 15 institutions of higher education, for the biennium beginning July 1, 2021, and ending June 30,
 16 2023. The funding provided in this section is considered a one-time funding item.

17 **SECTION 2.** Paragraph 3 of subdivision b of subsection 1 of section 15-10-48 of the North
 18 Dakota Century Code is created and enacted as follows:

19 (3) The institution is not sponsoring, partnering with, applying for grants with, or
 20 providing a grant subaward to any person or organization that performs, or
 21 promotes the performance of, an abortion unless the abortion is necessary
 22 to prevent the death of the woman, and not participating or sponsoring any
 23 program producing, distributing, publishing, disseminating, endorsing, or
 24 approving materials of any type or from any organization, that between

1 normal childbirth and abortion, do not give preference, encouragement, and
2 support to normal childbirth.

3 **SECTION 3. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-48 of the North
4 Dakota Century Code is amended and reenacted as follows:

5 c. The board may award up to ~~one million seven~~three million five hundred thousand
6 dollars in matching grants to each institution.

7 **SECTION 4. AMENDMENT.** Subdivision a of subsection 1 of section 15-10-49 of the North
8 Dakota Century Code is amended and reenacted as follows:

9 a. Subject to legislative appropriations, each biennium during the period beginning
10 July first of each odd-numbered year and ending December thirty-first of each
11 even-numbered year, the state board of higher education shall award one dollar
12 in matching grants for every two dollars raised by the institutional foundations of:

13 ~~(1)~~ Bismarck state college, Dakota college at Bottineau, Dickinson state
14 university, Lake Region state college, Mayville state university, Minot state
15 university, North Dakota state college of science, Valley City state university,
16 and Williston state college for projects dedicated exclusively to the
17 advancement of academics; ~~and~~

18 ~~(2) University of Jamestown and university of Mary for projects dedicated~~
19 ~~exclusively to student scholarships.~~

20 **SECTION 5.** Paragraph 3 of subdivision b of subsection 1 of section 15-10-49 of the North
21 Dakota Century Code is created and enacted as follows:

22 (3) The institution is not sponsoring, partnering with, applying for grants with, or
23 providing a grant subaward to any person or organization that performs, or
24 promotes the performance of, an abortion unless the abortion is necessary
25 to prevent the death of the woman, and not participating or sponsoring any
26 program producing, distributing, publishing, disseminating, endorsing, or
27 approving materials of any type or from any organization, that between
28 normal childbirth and abortion, do not give preference, encouragement, and
29 support to normal childbirth.

30 **SECTION 6. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-49 of the North
31 Dakota Century Code is amended and reenacted as follows:

Sixty-seventh
Legislative Assembly

- 1 c. The board may award up to:
- 2 (1) ~~Nine hundred fifty thousand~~Two million dollars each to Bismarck state
- 3 college, Minot state university, and the North Dakota state college of
- 4 science;
- 5 (2) ~~Seven~~One million five hundred thousand dollars each to Dickinson state
- 6 university, Mayville state university, ~~and~~Valley City state university, and
- 7 university of North Dakota school of medicine and health sciences; and
- 8 (3) ~~Three hundred~~Seven hundred fifty thousand dollars each to Dakota college
- 9 at Bottineau, university of Jamestown, Lake Region state college, university
- 10 of Mary, and Williston state college.

11 **SECTION 7. AMENDMENT.** Subdivision a of subsection 2 of section 15-10-49 of the North

12 Dakota Century Code is amended and reenacted as follows:

13 a. If any available dollars have not been awarded by the board before January first

14 of each odd-numbered year, in accordance with subsection 1, any institution

15 listed in paragraph 1 of subdivision a of subsection 1 may apply for an additional

16 matching grant.

17 b. If an institution violates state law or enters a contract with a person that performs

18 or promotes the performance of an abortion, unless the abortion is necessary to

19 prevent the death of the mother, that institution will have its operating costs

20 reduced by two million eight hundred thousand dollars. A person that signs a

21 contract in violation of this subdivision is guilty of a class B misdemeanor. The

22 attorney general shall prosecute an offense under this subdivision.

23 c. The university of North Dakota school of medicine and health sciences and any

24 state nursing program will not have its operating costs reduced if the institution

25 operates in accordance with paragraph 3 of subdivision b of subsection 1.

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 5, remove the first "and"

Page 1, line 9, after "academics" insert "; and to provide a penalty"

Page 1, line 12, replace "\$21,500,000" with "\$9,650,000"

Page 2, line 12, remove the underscored colon

Page 2, line 13, remove "(1)"

Page 2, line 17, remove "; and"

Page 2, remove line 18

Page 2, line 19, remove "exclusively to student scholarships"

Page 3, line 6, overstrike the first "and"

Page 3, line 6, after the third "university" insert ". and university of North Dakota school of
medicine and health sciences"

Page 3, line 8, remove "university of Jamestown."

Page 3, line 8, overstrike "Lake Region state college,"

Page 3, line 8, remove the second "university"

Page 3, line 9, remove "of Mary."

Page 3, after line 15, insert:

- "b. If an institution violates state law or enters a contract with a person that performs or promotes the performance of an abortion, unless the abortion is necessary to prevent the death of the mother, that institution will have its operating costs reduced by two million eight hundred thousand dollars. A person that signs a contract in violation of this subdivision is guilty of a class B misdemeanor. The attorney general shall prosecute an offense under this subdivision.
- c. The university of North Dakota school of medicine and health sciences and any state nursing program will not have its operating costs reduced if the institution operates in accordance with paragraph 3 of subdivision b of subsection 1."

Renumber accordingly

STATEMENT FROM NORTH DAKOTA STATE UNIVERSITY REGARDING SB2030

For the record, my name is Dean Bresciani, and I'm the president of NDSU. I am here to speak on the issues that have been raised about the interactions between NDSU and Planned Parenthood.

Let me start by saying that I have heard loud and clear that this committee is opposed to NDSU being involved with Planned Parenthood. The committee has been crystal clear about that issue.

In essence, there are three areas of interaction:

- First, NDSU and Planned Parenthood work together on a federal grant aimed at reducing unplanned teen pregnancy, particularly among at-risk youth.
- Second, NDSU allows for certain clinical internships where future professionals are trained on matters associated with women's health.
- Thirdly, NDSU has hosted a professional development course (not an academic credit generating course) which provides teachers with information about how to teach evidence-based sexuality education.

The committee has clearly indicated that it wants NDSU to stop Planned Parenthood's participation with these activities. However, please understand that I would be creating serious constitutional, legal, accreditation and State Board of Higher Education policy risks to NDSU by canceling academic offerings at the behest of the legislature.

Unlike K-12 institutions, the administration of a higher education institution, particularly a research institution, cannot dictate how researchers conduct research or deliver curricula. Instead, faculty have a great deal of leeway on these issues. This is referred to as academic freedom, and it is rooted in freedom of speech. Higher education is a place where ideas are created, exchanged, discussed and taught. Academic freedom is fundamental for those activities. I would refer you to the following:

- Policy 401.1 of the State Board of Higher Education;
- Criteria 2.C.4, 2.C.5, and 2.D. of the Higher Learning Commission's Criteria for Accreditation; and
- AAUP's *1940 Statement of Principles on Academic Freedom and Tenure*.

At its best, academic freedom can lead to amazing new concepts and technologies, but it can also be frustrating as it engages with complicated and controversial topics. Yes, academic freedom and freedom of speech can be messy and difficult, but adhering to it has been fundamental to making U.S. higher education the envy of the world.

In this case, Dr. Secor-Turner's research grant is expiring on September 29, and she has opted not to renew it. That was her choice. I did not make that happen, nor should I under academic freedom. With regard to terminating the clinical internship opportunities and the professional development course, accreditation standards would require the review and consent of NDSU's faculty.

I understand that this committee and the legislature may wish to punish NDSU for these academic matters. I believe the amount being considered is about \$3,000,000 over the course of the biennium plus the loss of the challenge grant funds. However, the principles of academic freedom and freedom of speech are fundamental to how NDSU, and all colleges and universities, operate and must be maintained for accreditation purposes.

I fear that the committee's request would run afoul of academic freedom and create significant risks of constitutional, accreditation and policy violations to NDSU. Because of these risks, I am asking this committee to consider referring this matter for a legislative study, as previously proposed by Chancellor Hagerott, prior to imposing any financial penalties on NDSU.

I am happy to answer any questions.

NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
POLICY MANUAL

SUBJECT: ACADEMIC AFFAIRS

EFFECTIVE: June 27, 2019

Section: 401.1 Academic Freedom

1. **SBHE Policy and Principles.** The State Board of Higher Education recognizes, as set forth in the 1940 Statement of Principles on Academic Freedom adopted by the American Association of University Professors with 1970 Interpretive Comments, the essential nature of academic freedom and responsibility to the institutions under its control, and reaffirms its commitment to ensuring that the institutions of the NDUS shall foster a free and open academic community for faculty members, students, and all other NDUS employees who engage in scholarly work.
2. **Academic Freedom.** Academic freedom is the freedom, without institutional, political, or other outside pressure or restraint, to explore any avenues of scholarship, research, and creative expression, and to speak or write on matters of public concern, as well as on matters related to professional duties and the functioning of the NDUS and the institution. Faculty are entitled the freedom in designing and teaching their assigned courses. Faculty members shall be free to involve interested students or other professionals in their scholarship or research and to pursue funding from internal or external sources to support it. Essential to this principle is the toleration of the conflict of ideas and the opportunity for the expression of diverse points of view. Faculty members and other NDUS employees who engage in scholarly work shall be subject to the full protections accorded to students under SBHE Policy 503.
3. **Academic Responsibility.** Academic responsibility implies the faithful performance of professional duties and obligations, the recognition of the demands of the scholarly enterprise, and the candor to make clear that when one is speaking on matters of public interest, one is not speaking for the NDUS or any of its institutions. In pursuing scholarly work, faculty and NDUS employees acknowledge the importance of intellectual integrity, accuracy in research and publication, and upholding the principles governing the free and open exchange of ideas, even where those ideas conflict.
4. **Classroom Speech and Expression.** Faculty at institutions under the control of the SBHE shall generally adhere to the 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments adopted by the American Association of University Professors, which provides that "Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject." Notwithstanding, faculty shall not face discipline or adverse employment action based on classroom speech unless such speech violates other institutional policies or procedures.
5. **Institutional Policies.** Each institution under the control of the SBHE, in consultation with the governing body of its faculty, shall implement a policy on Academic Freedom and

Responsibility which effectuates the principles set forth in this policy, yet accounts for the individual needs of the institution.

HISTORY: New policy, SBHE minutes, May 10-11, 1984 (replaces Article II, Section 4-A, pages II-15, 16); Revised by legal counsel, June 21, 2018; Amended, SBHE minutes, June 27, 2019.

experiential learning, religious or spiritual purpose and economic development.

2.C. The governing board of the institution is autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution's integrity.

1. The governing board is trained and knowledgeable so that it makes informed decisions with respect to the institution's financial and academic policies and practices; the board meets its legal and fiduciary responsibilities.
2. The governing board's deliberations reflect priorities to preserve and enhance the institution.
3. The governing board reviews the reasonable and relevant interests of the institution's internal and external constituencies during its decision-making deliberations.
4. The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests or other external parties.
5. The governing board delegates day-to-day management of the institution to the institution's administration and expects the institution's faculty to oversee academic matters.

2.D. The institution is committed to academic freedom and freedom of expression in the pursuit of truth in teaching and learning.

2.E. The institution's policies and procedures call for responsible acquisition, discovery and application of knowledge by its faculty, staff and students.

1. Institutions supporting basic and applied research maintain professional standards and provide oversight ensuring regulatory compliance, ethical behavior and fiscal accountability.
2. The institution provides effective support services to ensure the integrity of research and scholarly practice conducted by its faculty, staff and students.
3. The institution provides students guidance in the ethics of research and use of information resources.

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Agree

1940 Statement of Principles on Academic Freedom and Tenure

with 1970 Interpretive Comments

In 1915 the Committee on Academic Freedom and Academic Tenure of the American Association of University Professors formulated a statement of principles on academic freedom and academic tenure known as the 1915 *Declaration of Principles*, which was officially endorsed by the Association at its Second Annual Meeting held in Washington, D.C., December 31, 1915, and January 1, 1916.

In 1925 the American Council on Education called a conference of representatives of a number of its constituent members, among them the American Association of University Professors, for the purpose of formulating a shorter statement of principles on academic freedom and tenure. The statement formulated at this conference, known as the 1925 *Conference Statement on Academic Freedom and Tenure*, was endorsed by the Association of American Colleges (now the Association of American Colleges and Universities) in 1925 and by the American Association of University Professors in 1926.

In 1940, following a series of joint conferences begun in 1934, representatives of the American Association of University Professors and of the Association of American Colleges agreed on a restatement of the principles that had been set forth in the 1925 *Conference Statement on Academic Freedom and Tenure*. This restatement is known to the profession as the 1940 *Statement of Principles on Academic Freedom and Tenure*.

Following extensive discussions on the 1940 *Statement of Principles on Academic Freedom and Tenure* with leading educational associations and with individual faculty members and administrators, a joint committee of the AAUP and the Association of American Colleges met during 1969 to reevaluate this key policy statement. On the basis of the comments received, and the discussions that ensued, the joint committee felt the preferable approach was to formulate interpretations of the 1940 *Statement* from the experience gained in implementing and applying it for over thirty years and of adapting it to current needs.

The committee submitted to the two associations for their consideration *Interpretive Comments* that are included below as footnotes to the 1940 *Statement*.¹ These interpretations were adopted by the Council of the American Association of University Professors in April 1970 and endorsed by the Fifty-Sixth Annual Meeting as Association policy.

1. The Introduction to the Interpretive Comments notes: In the thirty years since their promulgation, the principles of the 1940 "Statement of Principles on Academic Freedom and Tenure" have undergone a substantial amount of refinement. This has evolved through a variety of processes, including customary acceptance, understandings mutually arrived at between institutions and professors or their representatives, investigations and reports by the American Association of University Professors, and formulations of statements by that association either alone or in conjunction with the Association of American

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole.² The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.³

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession

Colleges. These comments represent the attempt of the two associations, as the original sponsors of the 1940 "Statement," to formulate the most important of these refinements. Their incorporation here as Interpretive Comments is based upon the premise that the 1940 "Statement" is not a static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances.

Also, there have been relevant developments in the law itself reflecting a growing insistence by the courts on due process within the academic community which parallels the essential concepts of the 1940 "Statement"; particularly relevant is the identification by the Supreme Court of academic freedom as a right protected by the First Amendment. As the Supreme Court said in *Keyishian v. Board of Regents*, 385 US 589 (1967), "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."

2. The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

3. First 1970 comment: The Association of American Colleges and the American Association of University Professors have long recognized that membership in the academic profession carries with it special responsibilities. Both associations either separately or jointly have consistently affirmed these responsibilities in major policy statements, providing guidance to professors in their utterances as citizens, in the exercise of their responsibilities to the institution and to students, and in their conduct when resigning from their institution or when undertaking government-sponsored research. Of particular relevance is the "Statement on Professional Ethics" adopted in 1966 as Association policy (AAUP, *Policy Documents and Reports*, 11th ed. [Baltimore: Johns Hopkins University Press, 2015], 145–46).

attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

Academic Freedom

1. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.⁴ Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.⁵
3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.⁶

4. Second 1970 comment: The intent of this statement is not to discourage what is "controversial." Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject.

5. Third 1970 comment: Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 "Statement," and we do not now endorse such a departure.

6. Fourth 1970 comment: This paragraph is the subject of an interpretation adopted by the sponsors of the 1940 "Statement" immediately following its endorsement:

If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph 3 of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph 4 of the section on Academic Tenure. In pressing such charges, the administration should remember that teachers are citizens and should be

Academic Tenure

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

1. The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.
2. Beginning with appointment to the rank of full-time instructor or a higher rank,⁷ the

accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

Paragraph 3 of the section on Academic Freedom in the 1940 "Statement" should also be interpreted in keeping with the 1964 "Committee A Statement on Extramural Utterances," *Policy Documents and Reports*, 31, which states inter alia: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar."

Paragraph 5 of the "Statement on Professional Ethics," *Policy Documents and Reports*, 146, also addresses the nature of the "special obligations" of the teacher:

As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary and the tenured teacher, but also to all others, such as part-time faculty and teaching assistants, who exercise teaching responsibilities.

7. Fifth 1970 comment: The concept of "rank of full-time instructor or a higher rank" is intended to include any person who teaches a full-time load regardless of the teacher's specific title. [For a discussion of this question, see the "Report of the Special Committee on Academic

probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution, it may be agreed in writing that the new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years.⁸ Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.⁹

Personnel Ineligible for Tenure," *AAUP Bulletin* 52 (September 1966): 280-82.]

8. Sixth 1970 comment: In calling for an agreement "in writing" on the amount of credit given for a faculty member's prior service at other institutions, the "Statement" furthers the general policy of full understanding by the professor of the terms and conditions of the appointment. It does not necessarily follow that a professor's tenure rights have been violated because of the absence of a written agreement on this matter. Nonetheless, especially because of the variation in permissible institutional practices, a written understanding concerning these matters at the time of appointment is particularly appropriate and advantageous to both the individual and the institution. [For a more detailed statement on this question, see "On Crediting Prior Service Elsewhere as Part of the Probationary Period," *Policy Documents and Reports*, 167-68.]

9. Seventh 1970 comment: The effect of this subparagraph is that a decision on tenure, favorable or unfavorable, must be made at least twelve months prior to the completion of the probationary period. If the decision is negative, the appointment for the following year becomes a terminal one. If the decision is affirmative, the provisions in the 1940 "Statement" with respect to the termination of service of teachers or investigators after the expiration of a probationary period should apply from the date when the favorable decision is made.

The general principle of notice contained in this paragraph is developed with greater specificity in the "Standards for Notice of Nonreappointment," endorsed by the Fiftieth Annual Meeting of the American Association of University Professors (1964) (*Policy Documents and Reports*, 99). These standards are:

Notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing in accordance with the following standards:

1. *Not later than March 1 of the first academic year of service*, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.

3. During the probationary period a teacher should have the academic freedom that all other members of the faculty have.¹⁰
4. Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment upon the case. The teacher should be permitted to be accompanied by an advisor of his or her own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from the teacher's own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.¹¹

2. Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.
3. At least twelve months before the expiration of an appointment after two or more years in the institution.

Other obligations, both of institutions and of individuals, are described in the "Statement on Recruitment and Resignation of Faculty Members," *Policy Documents and Reports*, 153-54, as endorsed by the Association of American Colleges and the American Association of University Professors in 1961.

10. Eighth 1970 comment: The freedom of probationary teachers is enhanced by the establishment of a regular procedure for the periodic evaluation and assessment of the teacher's academic performance during probationary status. Provision should be made for regularized procedures for the consideration of complaints by probationary teachers that their academic freedom has been violated. One suggested procedure to serve these purposes is contained in the "Recommended Institutional Regulations on Academic Freedom and Tenure," *Policy Documents and Reports*, 79-90, prepared by the American Association of University Professors.

11. Ninth 1970 comment: A further specification of the academic due process to which the teacher is entitled under this paragraph is contained in the "Statement on Procedural Standards in Faculty Dismissal Proceedings," *Policy Documents and Reports*, 91-93, jointly approved by the

5. Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

Endorsers

Note: Groups that changed names subsequent to endorsing the statement are listed under their current names.

Association of American Colleges and Universities	1941
American Association of University Professors	1941
American Library Association (adapted for librarians)	1946
Association of American Law Schools	1946
American Political Science Association	1947
American Association for Higher Education and Accreditation	1950
American Association of Colleges for Teacher Education	1950
Eastern Psychological Association	1950
Southern Society for Philosophy and Psychology	1953
American Psychological Association	1961
American Historical Association	1961
Modern Language Association	1962
American Economic Association	1962
Agricultural and Applied Economic Association	1962
Midwest Sociological Society	1963
Organization of American Historians	1963
Society for Classical Studies	1963
American Council of Learned Societies	1963
American Sociological Association	1963

American Association of University Professors and the Association of American Colleges in 1958. This interpretive document deals with the issue of suspension, about which the 1940 "Statement" is silent.

The "Statement on Procedural Standards in Faculty Dismissal Proceedings" provides: "Suspension of the faculty member during the proceedings is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Unless legal considerations forbid, any such suspension should be with pay." A suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.

The concept of "moral turpitude" identifies the exceptional case in which the professor may be denied a year's teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year's teaching or pay. The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.

Southern Historical Association	1963	American Speech-Language-Hearing Association.....	1968
American Studies Association.....	1963	Association of Social and Behavioral Scientists	1968
Association of American Geographers	1963	College English Association.....	1968
Southern Economic Association.....	1963	National College Physical Education Association for Men	1969
Classical Association of the Middle West and South.....	1964	American Real Estate and Urban Economics Association.....	1969
Southwestern Social Science Association.....	1964	Council for Philosophical Studies	1969
Archaeological Institute of America	1964	History of Education Society.....	1969
Southern Management Association.....	1964	American Musicological Society.....	1969
American Theatre Association (now dissolved)	1964	American Association of Teachers of Spanish and Portuguese.....	1969
South Central Modern Language Association.....	1964	Texas Community College Teachers Association.....	1970
Southwestern Philosophical Society	1964	College Art Association of America.....	1970
Council of Independent Colleges.....	1965	Society of Professors of Education	1970
Mathematical Association of America.....	1965	American Anthropological Association.....	1970
Arizona-Nevada Academy of Science	1965	Association of Theological Schools	1970
American Risk and Insurance Association.....	1965	Association of Schools of Journalism and Mass Communication	1971
Academy of Management	1965	Academy of Legal Studies in Business.....	1971
American Catholic Historical Association.....	1966	Americans for the Arts	1972
American Catholic Philosophical Association.....	1966	New York State Mathematics Association of Two-Year Colleges.....	1972
Association for Education in Journalism and Mass Communication.....	1966	College Language Association.....	1973
Western History Association	1966	Pennsylvania Historical Association.....	1973
Mountain-Plains Philosophical Conference.....	1966	American Philosophical Association.....	1974
Society of American Archivists	1966	American Classical League.....	1974
Southeastern Psychological Association.....	1966	American Comparative Literature Association.....	1974
Southern States Communication Association.....	1966	Rocky Mountain Modern Language Association.....	1974
American Mathematical Society.....	1967	Society of Architectural Historians	1975
Association for Slavic, East European, and Eurasian Studies.....	1967	American Statistical Association.....	1975
College Theology Society	1967	American Folklore Society	1975
Council on Social Work Education.....	1967	Association for Asian Studies.....	1975
American Association of Colleges of Pharmacy	1967	Linguistic Society of America	1975
American Academy of Religion	1967	African Studies Association	1975
Association for the Sociology of Religion	1967	American Institute of Biological Sciences	1975
American Society of Journalism School Administrators (now merged with the Association of Schools of Journalism and Mass Communication).....	1967	North American Conference on British Studies.....	1975
John Dewey Society	1967	Sixteenth-Century Society and Conference ..	1975
South Atlantic Modern Language Association.....	1967	Texas Association of College Teachers	1976
American Finance Association	1967	Association for Jewish Studies	1976
Association for Social Economics.....	1967	Association for Spanish and Portuguese Historical Studies	1976
Phi Beta Kappa Society	1968	Western States Communication Association.....	1976
Society of Christian Ethics	1968	Texas Association of Colleges for Teacher Education.....	1977
American Association of Teachers of French	1968	Metaphysical Society of America.....	1977
Eastern Finance Association	1968	American Chemical Society	1977
American Association for Chinese Studies	1968	Texas Library Association.....	1977
American Society of Plant Biologists.....	1968	American Society for Legal History	1977
University Film and Video Association	1968	Iowa Higher Education Association	1977
American Dialect Society	1968	American Physical Therapy Association	1979

North Central Sociological Association.....	1980	Council of Teachers of Southeast	
Dante Society of America.....	1980	Asian Languages	1994
Association for Communication		American Association of Teachers of Arabic...	1994
Administration.....	1981	American Association of Teachers of	
National Communication Association.....	1981	Japanese.....	1994
American Association of Physics Teachers.....	1982	Academic Senate for California	
Middle East Studies Association	1982	Community Colleges	1996
National Education Association.....	1985	National Council for the Social Studies.....	1996
American Institute of Chemists	1985	Council of Academic Programs in	
American Association of Teachers		Communication Sciences and Disorders	1996
of German.....	1985	Association for Women in Mathematics	1997
American Association of Teachers of Italian...	1985	Philosophy of Time Society	1998
American Association for Applied		World Communication Association	1999
Linguistics.....	1986	The Historical Society.....	1999
American Association for Cancer Education..	1986	Association for Theatre in Higher Education..	1999
American Society of Church History.....	1986	National Association for Ethnic Studies.....	1999
Oral History Association.....	1987	Association of Ancient Historians	1999
Society for French Historical Studies	1987	American Culture Association	1999
History of Science Society.....	1987	American Conference for Irish Studies	1999
American Association of Pharmaceutical		Society for Philosophy in the	
Scientists	1988	Contemporary World.....	1999
American Association for Clinical		Eastern Communication Association.....	1999
Chemistry	1988	Association for Canadian Studies	
Council for Chemical Research	1988	in the United States.....	1999
Association for the Study of Higher		American Association for the History of	
Education.....	1988	Medicine.....	2000
American Psychological Association	1989	Missouri Association of Faculty Senates.....	2000
Association for Psychological Science.....	1989	Association for Symbolic Logic	2000
University and College Labor Education		American Society of Criminology.....	2001
Association.....	1989	American Jewish Historical Society	2001
Society for Neuroscience	1989	New England Historical Association	2001
Renaissance Society of America.....	1989	Society for the Scientific Study of Religion	2001
Society of Biblical Literature	1989	Society for German-American Studies	2001
National Science Teachers Association	1989	Society for Historians of the Gilded Age	
Medieval Academy of America	1990	and Progressive Era	2001
American Society of Agronomy	1990	Eastern Sociological Society	2001
Crop Science Society of America	1990	Chinese Historians in the United States.....	2001
Soil Science Society of America	1990	Community College Humanities	
International Society of Protistologists.....	1990	Association.....	2002
Society for Ethnomusicology	1990	Immigration and Ethnic History Society.....	2002
American Association of Physicists		Society for Early Modern Catholic Studies.....	2002
in Medicine.....	1990	Academic Senate of the California State	
Animal Behavior Society.....	1990	University.....	2004
Illinois Community College Faculty		Agricultural History Society	2004
Association.....	1990	National Council for Accreditation	
American Society for Theatre Research.....	1990	of Teacher Education	2005
National Council of Teachers of English.....	1991	American Council on the Teaching	
Latin American Studies Association.....	1992	of Foreign Languages.....	2005
Society for Cinema and Media Studies.....	1992	Society for the Study of Social Biology.....	2005
American Society for Eighteenth-Century		Society for the Study of Social Problems	2005
Studies.....	1992	Association of Black Sociologists.....	2005
Council of Colleges of Arts and Sciences.....	1992	Dictionary Society of North America	2005
American Society for Aesthetics.....	1992	Society for Buddhist-Christian Studies.....	2005
Association for the Advancement		Society for Armenian Studies	2006
of Baltic Studies.....	1994	Society for the Advancement of	
American Council of Teachers of Russian.....	1994	Scandinavian Study	2006

American Physiological Society.....	2006	Chinese Language Teachers Association	2014
National Women's Studies Association	2006	Coordinating Council for Women	
National Coalition for History	2006	in History.....	2014
Society for Military History	2006	Ecological Society of America	2014
Society for Industrial and Applied		Institute for American Religious and	
Mathematics	2006	Philosophical Thought	2014
Association for Research on Ethnicity and		Italian American Studies Association.....	2014
Nationalism in the Americas	2006	Midwestern Psychological Association.....	2014
Society of Dance History Scholars.....	2006	Modern Greek Studies Association.....	2014
Association of Literary Scholars, Critics,		National Association of Professors	
and Writers	2006	of Hebrew.....	2014
National Council on Public History.....	2006	National Council of Less Commonly	
College Forum of the National Council of		Taught Languages	2014
Teachers of English.....	2006	Population Association of America	2014
Society for Music Theory	2006	Society for Italian Historical Studies.....	2014
Society for Historians of American		Society for Psychophysiological Research.....	2014
Foreign Relations.....	2006	Society for Romanian Studies.....	2014
Law and Society Association	2006	Society for Textual Scholarship.....	2014
Society for Applied Anthropology.....	2006	Society for the History of Children and	
American Society of Plant Taxonomists.....	2006	Youth	2014
Society for the History of Technology	2006	Society for the Psychological Study	
German Studies Association.....	2006	of Social Issues.....	2014
Association of College and Research		Society for the Study of the Multi-Ethnic	
Libraries	2007	Literature of the United States.....	2014
Czechoslovak Studies Association.....	2007	Society of Civil War Historians	2014
American Educational Studies Association	2007	Society of Mathematical Psychology.....	2014
Southeastern Women's Studies Association ..	2009	Sociologists for Women in Society	2014
American Academy for Jewish Research.....	2014	Urban History Association	2014
American Association for Ukrainian		World History Association	2014
Studies.....	2014	American Educational Research	
American Association of Italian Studies	2014	Association.....	2014
American Theatre and Drama Society	2014	Labor and Working-Class History	
Central European History Society.....	2014	Association.....	2014
Central States Communication Association.....	2014	Paleontological Society	2014

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division Prairie Room, State Capitol

SB 2030

4/1/2021

House Appropriations Committee - Education and Environment

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Chairman David Monson called the meeting to order at 10:07 a.m.

Representative	Present	Absent
Chairman Monson	P	
Vice Chairman Schmidt	P	
Representative Martinson	P	
Representative Nathe	P	
Representative Sanford	P	
Representative Schatz	P	
Representative Boe	P	

Discussion Topics:

- Committee work

Representative Mike Schatz (10:11 a.m.) explained his proposed amendment. Testimony #11294

Representative Mike Schatz made a motion to adopt his amendment 21.0144.04009

Representative Mike Nathe seconded

Roll Call Vote taken:

Representative	Yea	Nay	Absent
Chairman Monson	X		
Vice Chairman Schmidt	X		
Representative Martinson		X	
Representative Nathe	X		
Representative Sanford		X	
Representative Schatz	X		
Representative Boe		X	

Motion Carried: 4-3-0

Representative Mike Schatz Do Pass as amended

Vice Chairman Jim Schmidt seconded

Representative	Yea	Nay	Absent
Chairman Monson	X		
Vice Chairman Schmidt	X		
Representative Martinson	X	X	
Representative Nathe	X		
Representative Sanford		X	
Representative Schatz	X		
Representative Boe		X	

Motion Carried: 4-3-0

Chairman David Monson adjourned the meeting at 10:18 a.m.

Klarissa Pudwill, Committee Clerk

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 5, remove the first "and"

Page 1, line 6, remove ", subdivision a of subsection 1 of section"

Page 1, remove line 7

Page 1, line 8, replace "of section 15-10-49" with "and section 15-18.2-05"

Page 1, line 9, after "academics" insert "and state aid for institutions of higher education; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive a matching grant for the advancement of academics; and to provide a penalty"

Page 1, line 12, replace "\$21,500,000" with "\$11,150,000"

Page 2, line 2, after the underscored period insert "This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education."

Page 2, line 5, remove the overstrike over "~~one million seven~~"

Page 2, line 5, remove "three million five"

Page 2, line 6, overstrike "to"

Page 2, line 6, overstrike "institution" and insert immediately thereafter "to the university of North Dakota and North Dakota state university; and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences"

Page 2, remove lines 7 through 19

Page 2, line 29, after the underscored period insert "This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education."

Page 2, remove lines 30 and 31

Page 3, replace lines 1 through 15 with:

"SECTION 5. AMENDMENT. Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid - Penalty.

1. Except as provided under ~~subsection 2~~subsections 2 and 3, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:

- a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.
 3. An institution must certify to the state board of higher education that the institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs or promotes the performance of an abortion unless the abortion is necessary to prevent the death of the woman, and not participating or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. If an institution violates this subsection, the state board of higher education shall reduce the product determined in subsection 1 for that institution by two million eight hundred thousand dollars. This subsection does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.
 4. Any individual who signs a contract in violation of subsection 3 is guilty of a class B misdemeanor. The states attorney shall prosecute an offense under this subsection.

SECTION 6. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment reduces funding for the higher education challenge grant program from \$21,500,000 to \$11,150,000 from the general fund, removes program eligibility for the University of Jamestown and the University of Mary, and provides for the University of North Dakota School of Medicine and Health Sciences to be eligible to receive up to \$1,500,000 through the program. This amendment also provides for a funding reduction of \$2.8 million for any institution that provides a federal grant subaward to or partners with an organization that performs or promotes the performance of an abortion, excluding agreements entered into by either the University of North Dakota School of Medicine and Health Sciences or any nursing education program with a medical hospital or clinic. The amendment also adds a penalty provision.

21.0144.04009

THIRD ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2030

Introduced by

Legislative Management
(Higher Education Committee)

1 A BILL for an Act to provide an appropriation to the state board of higher education for the
 2 higher education challenge matching grant program; to create and enact paragraph 3 of
 3 subdivision b of subsection 1 of section 15-10-48 and paragraph 3 of subdivision b of
 4 subsection 1 of section 15-10-49 of the North Dakota Century Code, relating to institution
 5 eligibility for a matching grant for the advancement of academics; ~~and to amend and reenact~~
 6 ~~subdivision c of subsection 1 of section 15-10-48, subdivision a of subsection 1 of section~~
 7 ~~15-10-49, subdivision c of subsection 1 of section 15-10-49, and subdivision a of subsection 2~~
 8 ~~of section 15-10-49 and section 15-18.2-05~~ of the North Dakota Century Code, relating to
 9 matching grants for the advancement of academics and state aid for institutions of higher
 10 education; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota
 11 Century Code, relating to the eligibility of the university of North Dakota school of medicine and
 12 health sciences to receive a matching grant for the advancement of academics; and to provide
 13 a penalty.

14 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

15 **SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the general
 16 fund in the state treasury, not otherwise appropriated, the sum of ~~\$21,500,000~~\$11,150,000, or
 17 so much of the sum as may be necessary, to the state board of higher education for the
 18 purpose of awarding matching grants for student scholarships and the advancement of
 19 academics at institutions of higher education, for the biennium beginning July 1, 2021, and
 20 ending June 30, 2023. The funding provided in this section is considered a one-time funding
 21 item.

22 **SECTION 2.** Paragraph 3 of subdivision b of subsection 1 of section 15-10-48 of the North
 23 Dakota Century Code is created and enacted as follows:

1 (3) The institution is not sponsoring, partnering with, applying for grants with, or
2 providing a grant subaward to any person or organization that performs, or
3 promotes the performance of, an abortion unless the abortion is necessary
4 to prevent the death of the woman, and not participating or sponsoring any
5 program producing, distributing, publishing, disseminating, endorsing, or
6 approving materials of any type or from any organization, that between
7 normal childbirth and abortion, do not give preference, encouragement, and
8 support to normal childbirth. This paragraph does not apply to agreements
9 entered into with medical hospitals and clinics by the university of North
10 Dakota school of medicine and health sciences or by any nursing education
11 program at an institution under the control of the state board of higher
12 education.

13 **SECTION 3. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-48 of the North
14 Dakota Century Code is amended and reenacted as follows:

15 c. The board may award up to ~~one million seven~~~~three million five~~ hundred thousand
16 dollars in matching grants ~~to each institution~~to the university of North Dakota and
17 North Dakota state university; and up to one million five hundred thousand dollars
18 in matching grants for projects at the university of North Dakota school of
19 medicine and health sciences.

20 ~~SECTION 4. AMENDMENT.~~ Subdivision a of subsection 1 of section 15-10-49 of the North
21 Dakota Century Code is amended and reenacted as follows:

22 ~~a.~~ Subject to legislative appropriations, each biennium during the period beginning
23 July first of each odd-numbered year and ending December thirty-first of each
24 even-numbered year, the state board of higher education shall award one dollar
25 in matching grants for every two dollars raised by the institutional foundations of:

26 ~~(1)~~ Bismarck state college, Dakota college at Bottineau, Dickinson state
27 university, Lake Region state college, Mayville state university, Minot state
28 university, North Dakota state college of science, Valley City state university,
29 and Williston state college for projects dedicated exclusively to the
30 advancement of academics; and

1 ~~(2) University of Jamestown and university of Mary for projects dedicated~~
2 ~~exclusively to student scholarships.~~

3 **SECTION 4.** Paragraph 3 of subdivision b of subsection 1 of section 15-10-49 of the North
4 Dakota Century Code is created and enacted as follows:

5 (3) The institution is not sponsoring, partnering with, applying for grants with, or
6 providing a grant subaward to any person or organization that performs, or
7 promotes the performance of, an abortion unless the abortion is necessary
8 to prevent the death of the woman, and not participating or sponsoring any
9 program producing, distributing, publishing, disseminating, endorsing, or
10 approving materials of any type or from any organization, that between
11 normal childbirth and abortion, do not give preference, encouragement, and
12 support to normal childbirth. This paragraph does not apply to agreements
13 entered into with medical hospitals and clinics by the university of North
14 Dakota school of medicine and health sciences or by any nursing education
15 program at an institution under the control of the state board of higher
16 education.

17 ~~**SECTION 6. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-49 of the North~~
18 ~~Dakota Century Code is amended and reenacted as follows:~~

19 ~~c. The board may award up to:~~

20 ~~(1) Nine hundred fifty thousand Two million dollars each to Bismarek state~~
21 ~~college, Minot state university, and the North Dakota state college of~~
22 ~~science;~~

23 ~~(2) Seven One million five hundred thousand dollars each to Dickinson state~~
24 ~~university, Mayville state university, and Valley City state university; and~~

25 ~~(3) Three hundred Seven hundred fifty thousand dollars each to Dakota college~~
26 ~~at Bottineau, university of Jamestown, Lake Region state college, university~~
27 ~~of Mary, and Williston state college.~~

28 ~~**SECTION 7. AMENDMENT.** Subdivision a of subsection 2 of section 15-10-49 of the North~~
29 ~~Dakota Century Code is amended and reenacted as follows:~~

30 ~~a. If any available dollars have not been awarded by the board before January first~~
31 ~~of each odd-numbered year, in accordance with subsection 1, any institution~~

1 ~~listed in paragraph 1 of subdivision a of subsection 1 may apply for an additional~~
2 ~~matching grant.~~

3 **SECTION 5. AMENDMENT.** Section 15-18.2-05 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **15-18.2-05. Base funding - Determination of state aid - Penalty.**

- 6 1. Except as provided under ~~subsection 2~~subsections 2 and 3, in order to determine the
7 state aid payment to which each institution under its control is entitled, the state board
8 of higher education shall multiply the product determined under section 15-18.2-04 by
9 a base amount of:
- 10 a. \$60.87 in the case of North Dakota state university and the university of North
11 Dakota;
- 12 b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot
13 state university, and Valley City state university; and
- 14 c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake
15 Region state college, North Dakota state college of science, and Williston state
16 college.
- 17 2. An institution is entitled to an amount equal to seventy-five percent of the product
18 determined under subsection 1 for credits completed by students receiving a tuition
19 waiver pursuant to section 54-12-35.
- 20 3. An institution must certify to the state board of higher education that the institution is
21 not sponsoring, partnering with, applying for grants with, or providing a grant subaward
22 to any person or organization that performs or promotes the performance of an
23 abortion unless the abortion is necessary to prevent the death of the woman, and not
24 participating or sponsoring any program producing, distributing, publishing,
25 disseminating, endorsing, or approving materials of any type or from any organization,
26 that between normal childbirth and abortion, do not give preference, encouragement,
27 and support to normal childbirth. If an institution violates this subsection, the state
28 board of higher education shall reduce the product determined in subsection 1 for that
29 institution by two million eight hundred thousand dollars. This subsection does not
30 apply to agreements entered into with medical hospitals and clinics by the university of

1 North Dakota school of medicine and health sciences or by any nursing education
2 program at an institution under the control of the state board of higher education.
3 4. Any individual who signs a contract in violation of subsection 3 is guilty of a class B
4 misdemeanor. The states attorney shall prosecute an offense under this subsection.
5 **SECTION 6. REPEAL.** Subdivision d of subsection 1 of section 15-10-48 of the North
6 Dakota Century Code is repealed.

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 5, remove the first "and"

Page 1, line 6, remove ", subdivision a of subsection 1 of section"

Page 1, remove line 7

Page 1, line 8, replace "of section 15-10-49" with "and section 15-18.2-05"

Page 1, line 9, after "academics" insert "and state aid for institutions of higher education; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive a matching grant for the advancement of academics; and to provide a penalty"

Page 1, line 12, replace "\$21,500,000" with "\$11,150,000"

Page 2, line 2, after the underscored period insert "This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education."

Page 2, line 5, remove the overstrike over "~~one million seven~~"

Page 2, line 5, remove "three million five"

Page 2, line 6, overstrike "to"

Page 2, line 6, overstrike "institution" and insert immediately thereafter "to the university of North Dakota and North Dakota state university; and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences"

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Page 2, line 29, after the underscored period insert "This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education."

Page 2, remove lines 30 and 31

Page 3, replace lines 1 through 15 with:

"SECTION 5. AMENDMENT. Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid - Penalty.

1. Except as provided under ~~subsection 2~~subsections 2 and 3, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:

- a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.
 3. An institution must certify to the state board of higher education that the institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs or promotes the performance of an abortion unless the abortion is necessary to prevent the death of the woman, and not participating or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. If an institution violates this subsection, the state board of higher education shall reduce the product determined in subsection 1 for that institution by two million eight hundred thousand dollars. This subsection does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.
 4. Any individual who signs a contract in violation of subsection 3 is guilty of a class B misdemeanor. The states attorney shall prosecute an offense under this subsection.

SECTION 6. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment reduces funding for the higher education challenge grant program from \$21,500,000 to \$11,150,000 from the general fund, removes program eligibility for the University of Jamestown and the University of Mary, and provides for the University of North Dakota School of Medicine and Health Sciences to be eligible to receive up to \$1,500,000 through the program. This amendment also provides for a funding reduction of \$2.8 million for any institution that provides a federal grant subaward to or partners with an organization that performs or promotes the performance of an abortion, excluding agreements entered into by either the University of North Dakota School of Medicine and Health Sciences or any nursing education program with a medical hospital or clinic. The amendment also adds a penalty provision.

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Brynhild Haugland Room, State Capitol

SB 2030
4/1/2021

BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program;

4:18 Chairman Delzer- Opened the meeting for SB 2030

Attendance	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	P
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	P
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	A

Discussion Topics:

- Bill Changes
- Amendment

4:19 Representative Schatz – Introduces the bill and the amendment 21.0144.04009

4:27 Representative Schatz - Makes a motion to adopt the amendment

Representative Monson Second

Further discussion

4:31 Voice Vote- Inconclusive

Roll Call Vote was taken;

Representatives	Vote
Representative Jeff Delzer	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Tracy Boe	N
Representative Mike Brandenburg	Y
Representative Michael Howe	N
Representative Gary Kreidt	Y
Representative Bob Martinson	N
Representative Lisa Meier	Y
Representative Alisa Mitskog	N
Representative Corey Mock	N
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	N
Representative Mark Sanford	N
Representative Mike Schatz	Y
Representative Jim Schmidt	Y
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y
Representative Don Vigesaa	A

Motion Carries 13-7-1

4:33 Representative Schatz Makes a motion for a Do Pass as Amended

Representative Monson Second

Further discussion

4:33 Roll Call Vote was Taken;

Representatives	Vote
Representative Jeff Delzer	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Tracy Boe	N
Representative Mike Brandenburg	Y
Representative Michael Howe	N
Representative Gary Kreidt	Y
Representative Bob Martinson	N
Representative Lisa Meier	Y
Representative Alisa Mitskog	N

Representative Corey Mock	N
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	N
Representative Mark Sanford	N
Representative Mike Schatz	Y
Representative Jim Schmidt	Y
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y
Representative Don Vigesaa	A

Motion Carries 13-7-1 Representative Schatz will carry the bill

Additional written testimony: No Additional Testimony

4:34 Chairman Delzer- Closes the meeting for SB 2030

Risa Berube,

House Appropriations Committee Clerk

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

Page 1, line 5, remove the first "and"

Page 1, line 6, remove ", subdivision a of subsection 1 of section"

Page 1, remove line 7

Page 1, line 8, replace "of section 15-10-49" with "and section 15-18.2-05"

Page 1, line 9, after "academics" insert "and state aid for institutions of higher education; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive a matching grant for the advancement of academics; and to provide a penalty"

Page 1, line 12, replace "\$21,500,000" with "\$11,150,000"

Page 1, line 22, after "participating" insert "in"

Page 2, line 2, after the underscored period insert "This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education."

Page 2, line 5, remove the overstrike over "~~one million seven~~"

Page 2, line 5, remove "~~three million five~~"

Page 2, line 6, overstrike "to"

Page 2, line 6, overstrike "institution" and insert immediately thereafter "to the university of North Dakota and North Dakota state university; and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences"

Page 2, remove lines 7 through 19

Page 2, line 25, after "participating" insert "in"

Page 2, line 29, after the underscored period insert "This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education."

Page 2, remove lines 30 and 31

Page 3, replace lines 1 through 15 with:

"SECTION 5. AMENDMENT. Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid - Penalty.

1. Except as provided under ~~subsection~~ subsections 2 and 3, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:
 - a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.
3. An institution must certify to the state board of higher education that the institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs or promotes the performance of an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization which, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. If an institution violates this subsection, the state board of higher education shall reduce the product determined in subsection 1 for that institution by two million eight hundred thousand dollars. This subsection does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.
4. Any individual who signs a contract in violation of subsection 3 is guilty of a class B misdemeanor. The state's attorney shall prosecute an offense under this subsection.

SECTION 6. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment reduces funding for the higher education challenge grant program from \$21,500,000 to \$11,150,000 from the general fund, removes program eligibility for the University of Jamestown and the University of Mary, and provides for the University of North Dakota School of Medicine and Health Sciences to be eligible to receive up to \$1,500,000 through the program. This amendment also provides for a funding reduction of \$2.8 million for any institution that provides a federal grant subaward to or partners with an organization that performs or promotes the performance of an abortion, excluding agreements entered into by

DA 4/1/21
3 of 3

either the University of North Dakota School of Medicine and Health Sciences or any nursing education program with a medical hospital or clinic. The amendment also adds a penalty provision.

REPORT OF STANDING COMMITTEE

SB 2030, as reengrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2030 was placed on the Sixth order on the calendar.

Page 1, line 5, remove the first "and"

Page 1, line 6, remove ", subdivision a of subsection 1 of section"

Page 1, remove line 7

Page 1, line 8, replace "of section 15-10-49" with "and section 15-18.2-05"

Page 1, line 9, after "academics" insert "and state aid for institutions of higher education; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive a matching grant for the advancement of academics; and to provide a penalty"

Page 1, line 12, replace "\$21,500,000" with "\$11,150,000"

Page 1, line 22, after "participating" insert "in"

Page 2, line 2, after the underscored period insert "This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education."

Page 2, line 5, remove the overstrike over "~~one million seven~~"

Page 2, line 5, remove "~~three million five~~"

Page 2, line 6, overstrike "to"

Page 2, line 6, overstrike "institution" and insert immediately thereafter "to the university of North Dakota and North Dakota state university; and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences"

Page 2, remove lines 7 through 19

Page 2, line 25, after "participating" insert "in"

Page 2, line 29, after the underscored period insert "This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education."

Page 2, remove lines 30 and 31

Page 3, replace lines 1 through 15 with:

"SECTION 5. AMENDMENT. Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid - Penalty.

1. Except as provided under ~~subsections~~ subsections 2 and 3, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:
 - a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.
3. An institution must certify to the state board of higher education that the institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs or promotes the performance of an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization which, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. If an institution violates this subsection, the state board of higher education shall reduce the product determined in subsection 1 for that institution by two million eight hundred thousand dollars. This subsection does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.
4. Any individual who signs a contract in violation of subsection 3 is guilty of a class B misdemeanor. The state's attorney shall prosecute an offense under this subsection.

SECTION 6. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed."

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment reduces funding for the higher education challenge grant program from \$21,500,000 to \$11,150,000 from the general fund, removes program eligibility for the University of Jamestown and the University of Mary, and provides for the University of North Dakota School of Medicine and Health Sciences to be eligible to receive up to \$1,500,000 through the program. This amendment also provides for a funding reduction of \$2.8 million for any institution that provides a federal grant subaward to or partners with an organization that performs or promotes the performance of an abortion, excluding agreements entered into by either the University of North Dakota School of Medicine and Health Sciences or any nursing education program with a medical hospital or clinic. The amendment also adds a penalty provision.

2021 CONFERENCE COMMITTEE

SB 2030

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2030
4/20/2021
Senate Appropriations Conference Committee

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Senator Krebsbach opened the hearing at 2:42 PM.

Senators present: **Krebsbach, Wanzek, Heckaman.**
Representatives present: **Schatz, Monson, Schmidt**

Discussion Topics:

- Amendment changes
- Universities partnering with Planned Parenthood

Representative Schatz explained the House changes to SB 2030.

Senator Krebsbach presented Letter of Opinion by Attorney General Wayne Stenehjem - #11579.

Lisa Johnson, Vice Chancellor for Academic and Student Affairs, NDUS – answering committee questions.

Senator Krebsbach closed the hearing at 3:19 PM.

Rose Laning, Committee Clerk

**LETTER OPINION
2013-L-02**

February 14, 2013

Ms. Claire J. Holloway
General Counsel
North Dakota University System
600 E. Boulevard Ave. Dept. 215
Bismarck, ND 58505-0230

Dear Ms. Holloway:

Thank you for your January 31, 2013, letter requesting an opinion as to whether the Eighth Circuit Court of Appeals, in Valley Family Planning v. State of N.D., 661 F.2d 99 (8th Cir. 1981), struck down North Dakota Century Code § 14-02.3-02 completely, or invalidated only the portion of the statute pertaining to family planning funds allocated to entities or persons who provide referrals for abortions or encourage abortions. It is my opinion that the decision rendered by the Eighth Circuit Court of Appeals, in Valley Family Planning, 661 F.2d 99, completely invalidated N.D.C.C. § 14-02.3-02.

ANALYSIS

At issue is a section of law in North Dakota's "Limitation of Abortion" Act,¹ which provides:

No funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency may be used as family planning funds by any person or public or private agency which performs, refers, or encourages abortion.²

This statute was challenged on the grounds it conflicted with various federal statutes, including Title X of the Public Health Service Act.³

¹ N.D.C.C. ch. 14-02.3.

² N.D.C.C. § 14-02.3-02 (emphasis added).

³ It was also challenged on the grounds it conflicted with Title V and XIX of the Social Security Act, and that it violated the First and Fourteenth Amendments. Valley Family Planning v. State of N.D., 661 F.2d 99, 100 (8th Cir. 1981).

The plaintiff in the case, Valley Family Planning, is a private, nonprofit corporation. The district court found that Valley Family Planning “neither performs abortions nor encourages its clients to obtain abortions,” however, it did, at least at that time, offer “abortion referral services to its clients.”⁴

The opinion of the Eighth Circuit Court of Appeals (hereafter, “Court”) is quite short. The Court stated that Title X authorizes “grants to . . . entities to assist in the establishment and operation of voluntary family planning projects.”⁵ Federal regulations provide that Title X grantees must “(p)rovide for medical services related to family planning . . . and necessary referral to other medical facilities when medically indicated.”⁶

The Court indicated that Congress has authorized federal funds to be used to perform abortions under certain circumstances, “particularly when the life of the woman is at stake.”⁷

The Court concluded:

The conflict between Title X and N.D.Cent.Code § 14-02.3-02 is clear. Even under the most aggravated circumstances, such as where a woman’s life would be endangered if she carried the pregnancy to term, the North Dakota provision prohibits Title X grantees from making an abortion referral. This runs afoul of Title X’s mandate that comprehensive health care be provided, including referrals to other services when medically indicated. Accordingly, the North Dakota statute is invalid under the Supremacy Clause.⁸

The Court did not qualify or restrict its finding. It purposefully declined to rewrite the statute “to cure the invalidity,” because to do so would be “legislative enactment clearly beyond its judicial role” and that the legislative history and intent would not support the Court amending the statute.⁹

⁴ Valley Family Planning, 661 F.2d 99, 100 (8th Cir. 1981), quoting the district court’s findings.

⁵ Id. at 101.

⁶ Id. at 101, citing 42 C.F.R. § 59.5(b)(1).

⁷ Id. at 102.

⁸ Id. at 102 (emphasis added).

⁹ Id. at 102.

LETTER OPINION 2013-L-02
February 14, 2013
Page 3

In conclusion, the Court ruled “the North Dakota statute is invalid under the Supremacy Clause” and did not qualify or restrict its ruling.¹⁰ Therefore, it is my opinion that the Court in Valley Family Planning, 661 F.2d 99 invalidated N.D.C.C. § 14-02.3-02 in its entirety.

Sincerely,

Wayne Stenehjem
Attorney General

las/slv/vkk

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.¹¹

¹⁰ Id. at 102.

¹¹ See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2030
4/22/2021
Senate Appropriations Conference Committee

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Senator Krebsbach opened the hearing at 2:31 p.m.

Senators present: **Krebsbach, Wanzek, Heckaman.**
Representatives present: **Schatz, Monson, Schmidt**

Discussion Topics:

- Abortion-Related Programs
- NDSU

Representative Schatz moved that the Senate Accede to the House Amendments
Representative Monson seconded the motion

Motion Failed
Senate Vote – 1-2-0
House Vote – 3-0-0

Senator Krebsbach presented amendment 21.0144.04011 (#11677) and moved to adopt
Senator Heckaman seconded the motion

No Vote Occured

Senator Krebsbach presented amendment 21.0144.04010 (#11676)

Senator Krebsbach closed the hearing at 3:01 p.m.

Rose Laning, Committee Clerk

April 21, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

That the House recede from its amendments as printed on pages 1218-1220 of the Senate Journal and pages 1431-1433 of the House Journal and that Engrossed Senate Bill No. 2030 be amended as follows:

Page 1, line 2, remove "to create and enact paragraph 3 of"

Page 1, remove lines 3 and 4

Page 1, line 5, remove "eligibility for a matching grant for the advancement of academics; and"

Page 1, line 6, remove ", subdivision a of subsection 1 of section"

Page 1, line 7, replace the first "15-10-49," with "and"

Page 1, line 7, remove ", and subdivision a of subsection 2"

Page 1, line 8, remove "of section 15-10-49"

Page 1, line 9, after "academics" insert "; and to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive matching grants for the advancement of academics"

Page 1, line 12, replace "\$21,500,000" with "\$15,000,000"

Page 1, remove lines 17 through 24

Page 2, remove lines 1 and 2

Page 2, line 5, remove "three million five"

Page 2, line 5, overstrike "hundred" and insert immediately thereafter "two million three hundred fifty"

Page 2, line 6, overstrike "to"

Page 2, line 6, overstrike "institution" and insert immediately thereafter "to the university of North Dakota and North Dakota state university; and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences"

Page 2, remove lines 7 through 29

Page 3, line 2, replace "Two million" with "One million three hundred fifty"

Page 3, line 5, remove "One million five"

Page 3, line 5, overstrike "hundred thousand" and insert immediately thereafter "One million"

Page 3, line 7, remove "Seven hundred"

Page 3, line 7, overstrike "fifty" and insert immediately thereafter "Five hundred"

Page 3, line 8, remove "university of Jamestown."

Page 3, line 8, remove the second "university"

Page 3, line 9, remove "of Mary."

Page 3, replace lines 10 through 15 with:

"SECTION 4. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed."

Re-number accordingly

21.0144.04010
Title.

Prepared by the Legislative Council staff for
Senator Krebsbach
April 21, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

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Page 1, line 5, remove "eligibility for a matching grant for the advancement of academics; and"

Page 1, line 6, remove ", subdivision a of subsection 1 of section"

Page 1, line 7, replace the first "15-10-49," with "and"

Page 1, line 7, remove ", and subdivision a of subsection 2"

Page 1, line 8, remove "of section 15-10-49"

Page 1, line 9, after "academics" insert "; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive matching grants for the advancement of academics; and to provide for a legislative management study"

Page 1, remove lines 17 through 24

Page 2, remove lines 1 and 2

Page 2, line 6, overstrike "to"

Page 2, line 6, overstrike "institution" and insert immediately thereafter "to the university of North Dakota and North Dakota state university; and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences"

Page 2, remove lines 7 through 29

Page 3, line 8, remove "university of Jamestown."

Page 3, line 8, remove the second "university"

Page 3, line 9, remove "of Mary."

Page 3, replace lines 10 through 15 with:

"SECTION 4. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - IMPACT OF ABORTION-RELATED RESTRICTIONS ON HIGHER EDUCATION INSTITUTIONS. During the 2021-22 interim, the legislative management shall consider studying the potential impact of legal restrictions relating to abortion for institutions under the control of the state board of higher education. The study must include:

1. The impact of potential laws preventing institutions of higher education from sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs or promotes the performance of an abortion unless the abortion is necessary to prevent the death of the woman, or from participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization which, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth.
2. The potential impacts of the restrictions included in subsection 1 and chapter 14-02.3 on accreditation, academic programs, research, internships, donations, and other institution operations.
3. The potential conflicts between section 15-10.4-02 and the restrictions included in subsection 1 and chapter 14-02.3, including conflicts with academic freedom, free speech, activities of student organizations, and the use of state funds by student organizations."

Renumber accordingly

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2030
4/23/2021

Senate Appropriations Conference Committee

A BILL for an Act to provide an appropriation to the state board of higher education for the higher education challenge matching grant program.

Senator Krebsbach opened the hearing at 2:30 p.m.

Senators present: **Krebsbach, Wanzek, Heckaman.**
Representatives present: **Schatz, Monson, Schmidt**

Discussion Topics:

- Voting

Roll Call Vote from previous meeting motion (moved by **Senator Krebsbach** and second by **Senator Heckaman**) for House to recede from amendments and amend as follows. LC 21.0144.04011 - (#11677)

Senator Krebsbach –Y	Representative Schatz – N
Senator Wanzek – N	Representative Monson – N
Senator Heckaman – Y	Representative Schmidt – N

Roll call vote 2-4-0. Motion failed.

Senator Heckaman moved for House to recede from amendments and amend as follows. LC 21.0144.04010 – (#11676)

Senator Krebsbach seconded the motion.

Senator Krebsbach –Y	Representative Schatz – N
Senator Wanzek – N	Representative Monson – N
Senator Heckaman – Y	Representative Schmidt – N

Roll call vote 2-4-0. Motion failed.

Representative Schatz moved that the Senate Accede to the House Amendments.
Representative Schmidt seconded the motion.

Senator Krebsbach –Y	Representative Schatz – Y
Senator Wanzek – Y	Representative Monson – Y
Senator Heckaman – N	Representative Schmidt – Y

Roll call vote 5-1-0. Motion passed.

Senator Krebsbach closed the hearing at 2:42 p.m.

Rose Laning, Committee Clerk

**2021 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2030 as (re) engrossed

Senate Appropriations Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Krebsbach Seconded by: Heckaman

Senators					Representatives				
			Yes	No				Yes	No
Krebsbach			X		Schatz				X
Wanzek			X		Monson				X
Heckaman				X	Schmidt				X
Total Senate Vote			2	1	Total Rep. Vote			0	3

Vote Count Yes: 2 No: 4 Absent: 0

Senate Carrier _____ House Carrier _____

LC Number 21.0144 . 04011 of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**2021 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2030 as (re) engrossed

Senate Appropriations Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows

 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Heckaman Seconded by: Krebsbach

Senators					Representatives				
			Yes	No				Yes	No
Krebsbach			X		Schatz				X
Wanzek			X		Monson				X
Heckaman				X	Schmidt				X
Total Senate Vote			2	1	Total Rep. Vote			0	3

Vote Count Yes: 2 No: 4 Absent: 0

Senate Carrier _____ House Carrier _____

LC Number 21.0144 . 04010 of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2030, as reengrossed: Your conference committee (Sens. Krebsbach, Wanzek, Heckaman and Reps. Schatz, Monson, Schmidt) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 1218-1220 and place SB 2030 on the Seventh order.

Reengrossed SB 2030 was placed on the Seventh order of business on the calendar.

April 21, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2030

That the House recede from its amendments as printed on pages 1218-1220 of the Senate Journal and pages 1431-1433 of the House Journal and that Engrossed Senate Bill No. 2030 be amended as follows:

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Page 1, line 5, remove "eligibility for a matching grant for the advancement of academics; and"

Page 1, line 6, remove ", subdivision a of subsection 1 of section"

Page 1, line 7, replace the first "15-10-49," with "and"

Page 1, line 7, remove ", and subdivision a of subsection 2"

Page 1, line 8, remove "of section 15-10-49"

Page 1, line 9, after "academics" insert "; and to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive matching grants for the advancement of academics"

Page 1, line 12, replace "\$21,500,000" with "\$15,000,000"

Page 1, remove lines 17 through 24

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Page 2, line 5, remove "three million five"

Page 2, line 5, overstrike "hundred" and insert immediately thereafter "two million three hundred fifty"

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Re-number accordingly

21.0144.04010
Title.

Prepared by the Legislative Council staff for
Senator Krebsbach
April 21, 2021

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1. The impact of potential laws preventing institutions of higher education from sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs or promotes the performance of an abortion unless the abortion is necessary to prevent the death of the woman, or from participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization which, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth.
2. The potential impacts of the restrictions included in subsection 1 and chapter 14-02.3 on accreditation, academic programs, research, internships, donations, and other institution operations.
3. The potential conflicts between section 15-10.4-02 and the restrictions included in subsection 1 and chapter 14-02.3, including conflicts with academic freedom, free speech, activities of student organizations, and the use of state funds by student organizations."

Renumber accordingly