

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

REVISED

AGENDA ITEM: 8 – B

DATE: December 7-8, 2022

SUBJECT

2023 Board Sponsored Legislation

CONTROLLING STATUTE, RULE, OR POLICY

[SDCL § 13-51-1](#) – Legislative approval for facilities

[BOR Policy 6:10](#) – Legislative Authorization of Private or Grant Funded Facilities

[BOR Policy 1:12](#) – State Relations

BACKGROUND / DISCUSSION

This item has been updated to include Attachments I - VII, which comprise the proposed legislative package for the Board during the 2023 Legislative Session. The Board's proposed legislation includes:

Cybersecurity Upgrades (Attachment I)

- \$5,106,000 in one-time funding to enhance cyber-security infrastructure across the system. The infrastructure upgrades would include such things as a firewall refresh, Microsoft security upgrades, security assessment(s), privileged account management, storage, and back-up storage and licensing.

Construction Cost Overages (Attachments II – IV)

- \$2.75M for construction cost overages for the Mineral Industries Building at SDSMT authorized by SB156 from the 2021 Legislative Session (Attachment II)
- \$3M for construction cost overages for the Bioproducts Facility at the SDSU Research Park authorized by HB1210 from the 2021 Legislative Session (Attachment III)
- \$1M for construction cost overages for the new dairy research and extension farm at SDSU authorized by HB1153 from the 2021 Legislative Session (Attachment IV)

(Continued)

DRAFT MOTION 20221207_8-B:

I move to authorize the Executive Director to (1) submit the proposed bills and make such modifications or amendments to the bills as are necessary and appropriate, provided such modifications or amendments do not change the fundamental purpose of the legislation, and (2) submit such additional legislation as may be necessary and appropriate, upon concurrence of a majority of the legislative committee.

DSU Land Sale (Attachment V)

- Authorization to sell a parcel of property (approx. 2.4 acres) at DSU that was part of the acquisition authorized for the DSU events center. As site planning materialized, the holding pond location shifted, leaving this parcel cutoff from the rest of the property and of no use for DSU moving forward. Rather than maintaining the parcel, DSU requested authorization to sell the parcel at a minimum of its appraised value in accordance with SDCL §§ 5-2-2.1 and 5-2-2.2.

SDSU Agricultural Structures (Attachment VI)

- Authorization to demolish 5 agricultural structures damaged in the May 12th, 2022, storm at SDSU and to replace the same with 4 new structures, all of which will be funded with insurance proceeds, and if necessary, institutional and/or federal funds. The total cost for the demolition and reconstruction is \$5.8M.

SDSD Renaming and Cleanup (Attachment VII)

- Adjusting the name of the South Dakota School for the Deaf to more accurately reflect the nature of services provided in today's environment. With the SDSD providing services primarily via outreach vs. a more traditional school setting, stakeholders have expressed support for adjusting the name. The new name would be South Dakota Services for the Deaf, maintaining the SDSD logo/acronym. In addition to the name change, there are various cleanup changes referenced in Attachment VII to align the statutory framework/verbiage with the current service model vs. traditional school setting.

IMPACT AND RECOMMENDATIONS

With approval, Board office staff will introduce the Board-sponsored legislation in substantively similar form to that contained in Attachments I - VII, and work with members of the Legislature and the Governor's office to have the legislation become law.

ATTACHMENTS

Attachment I – Cybersecurity Upgrades

Attachment II – Construction Cost Overages - Mineral Industry Building

Attachment III – Construction Cost Overages - Bioproducts Facility

Attachment IV – Construction Const Overages - SDSU Dairy

Attachment V – DSU Land Sale

Attachment VI – SDSU Agricultural Structures

Attachment VII – SDSD Renaming and Cleanup

An Act to make an appropriation for cybersecurity upgrades for the Board of Regents and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. There is hereby appropriated from the general fund the sum of \$5,106,000 to the Board of Regents, for the purpose of purchasing cybersecurity upgrades to enhance and protect network security within the system.

Section 2. The executive director of the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay any expenses authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures described in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to revise the authorized construction costs for the Mineral Industries Building on the campus of South Dakota School of Mines and Technology, to make an appropriation therefor, and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That section 2 of chapter 228 of the 2021 Session Laws be amended to read:

Section 2. There is hereby appropriated to the Board of Regents for the purposes authorized in this Act, the sum of ~~\$19,000,000~~ \$21,750,000 in general funds; and the sum of \$16,000,000 in other fund expenditure authority.

Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to revise the authorized construction costs for the bioproducts facility in Brookings, to make an appropriation therefor, and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That section 1 of chapter 244 of the 2021 Session Laws be amended to read:

Section 1. There is hereby appropriated from the general fund the sum of ~~\$20,000,000~~ \$23,000,000 to the Board of Regents, for the purposes of providing grant funding for the design, construction, and furnishing of a new bioproducts facility at the research park in Brookings.

Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to revise the authorized construction costs for the new dairy research and extension farm on the campus of South Dakota State University, to make an appropriation therefor, and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That section 2 of chapter 240 of the 2021 Session Laws be amended to read:

Section 2. There is hereby appropriated from the general fund the sum of ~~\$7,500,000~~ \$8,500,000 and the sum of \$7,500,000 in other fund expenditure authority, together with any additional sums received pursuant to section 4 of this Act, for the purposes authorized in section 1 of this Act.

Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to authorize the Board of Regents to sell extraneous real property located in Lake County, to deposit the proceeds in the school and public lands trust for the benefit of Dakota State University, and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. The Board of Regents may sell, at a minimum of its appraised value in accordance with SDCL §§ 5-2-2.1 and 5-2-2.2, all or any portion of the following described real property in the City of Madison, Lake County, South Dakota: TRACT A OF LOT 3 OF BLOCK 1 DSU FOUNDATION ADDITION.

Section 2. The proceeds from the sale authorized by this Act, less any costs associated with the sale of the land, shall be deposited in the school and public lands trust, pursuant to chapter 5-10, and the earnings therefrom shall be credited to the support of Dakota State University and its authorized programs as provided by law.

Section 3. The executive director of the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay any expenses associated with the sale authorized by this Act.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to authorize the Board of Regents to demolish and reconstruct certain storm damaged agricultural structures at South Dakota State University, to make an appropriation therefor, and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. The Board of Regents may demolish, remove, dispose, and reconstruct a structure known as Agriculture Experiment Station Shed Hoop West 0848, consisting of fourteen thousand seven hundred square feet at South Dakota State University. This project includes demolition, abatement of asbestos, or other such hazardous materials, the lawful disposal of the fixtures or rubble, and any other action reasonably necessary to restore the site and construct a replacement facility in its place.

Section 2. The Board of Regents may demolish, remove, dispose, and reconstruct a structure known as Agriculture Experiment Station Shed Hoop East 0849, consisting of fourteen thousand seven hundred square feet at South Dakota State University. This project includes demolition, abatement of asbestos, or other such hazardous materials, the lawful disposal of the fixtures or rubble, any other action reasonably necessary to restore the site and construct a replacement facility in its place.

Section 3. The Board of Regents may demolish, remove, dispose, and reconstruct a structure known as Agriculture Experiment Station Monoslope Horse building 627, consisting of six thousand eighty square feet at South Dakota State University. This project includes demolition, abatement of asbestos, or other such hazardous materials, the lawful disposal of the fixtures or rubble, any other action reasonably necessary to restore the site of the grade and reconstruct the existing five structural bays, fencing, pens, and gates. The project would include an enclosed addition of two thousand four hundred square feet to house transient pigs. The addition would be constructed in lieu of replacing the Agriculture Experiment Station Beef Breeding North Barn building T0860 being demolished pursuant to Section 5 of this Act.

Section 4. The Board of Regents may demolish, remove, and dispose of a structure known as Agriculture Experiment Station Sheep Unit Commodity Shed building T1300, consisting of four hundred and sixty-six square feet at South Dakota State University, and construct a replacement commodity storage shed in its place. This project includes demolition, abatement of asbestos, or other such hazardous materials, the lawful disposal of the fixtures or rubble, any other action reasonably necessary to restore the site and construct the replacement facility in its place.

Section 5. The Board of Regents may demolish, remove, and dispose of a structure known as Agriculture Experiment Station Beef Breeding North Barn building T0860, consisting of three thousand nine hundred and forty square feet at South Dakota State University. This project includes demolition, abatement of asbestos, or other such hazardous materials, the lawful disposal of the fixtures or rubble, and any other action reasonably necessary to restore the surface condition of the site.

Section 6. There is hereby appropriated the sum of five million eight hundred thousand dollars (\$5,800,000), or so much thereof as may be necessary, in other fund expenditure authority from insurance proceeds, institutional funds, and federal funds to the Board of Regents for the purposes authorized in sections 1 to 5, inclusive, of this Act.

Section 7. The cost estimates contained in this Act have been stated in terms of 2022 values. The Board of Regents may adjust such cost estimates to reflect project inflation as measured by the Building Cost Index, reported by the Engineering News Record, and additional expenditures required to comply with regulations adopted after the effective date of this Act, or additional sums received pursuant to section 4 of this Act. Any adjustments to construction cost estimates for the project authorized in section 1 of this Act may not exceed one hundred twenty-five percent of the estimated project construction cost stated in section 6 of this Act.

Section 8. The executive director of the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 9. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to revise certain provisions pertaining to the state's school for the deaf.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That §13-49-14.12 be AMENDED:

13-49-14.12. South Dakota ~~Services School~~ for the Deaf and the South Dakota School for the Visually Handicapped maintenance and repair fund created--Deposit of money--Availability of funds--Use of funds.

The Board of Regents may deposit any moneys held by it pursuant to § 13-49-14.2, but not needed to cover liabilities heretofore incurred, into a special fund hereby created in the South Dakota school and public lands endowment, to be known as ~~the South Dakota Services School~~ for the Deaf and the South Dakota School for the Visually Handicapped maintenance and repair fund. All moneys so deposited shall become part of the school and public lands endowment, whose principal shall be held inviolate, and their earnings shall be made available to the Board of Regents to address the cost of routine maintenance and repair of the physical plant of the South Dakota ~~Services School~~ for the Deaf and the South Dakota School for the Visually Handicapped.

Section 2. That §13-49-14.13 be AMENDED:

13-49-14.13. Background investigation of persons hired for certain positions at South Dakota School for the Blind and Visually Impaired and ~~the South Dakota Services School~~ for the Deaf--Temporary employment pending results of background check.

Each person hired at the South Dakota School for the Blind and Visually Impaired and ~~the South Dakota Services School~~ for the Deaf to serve as superintendent, administrator, or principal, in a teaching or teaching assistant position, in a certificated or licensed clinical employment position, or on the residence hall staff in any capacity shall agree to submit to a background investigation, by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. The hiring institution shall submit completed fingerprint cards to the Division of Criminal Investigation before the prospective new employee enters into service. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check. Any person whose employment is

subject to the requirements of this section may enter into service on a temporary basis pending receipt of results from the background investigation. The employing institution may, without liability, withdraw its offer of employment or terminate the temporary employment without notice if the report reveals that the person has been convicted of any crime involving moral turpitude, including traffic in narcotics, that might justify suspension or revocation of a teaching license pursuant to § 13-42-10, or otherwise reveals circumstances that reasonably suggest that the person should not be employed in the special school setting.

Section 3. That § 13-49-39 be AMENDED:

13-49-39. Collective bargaining--Prohibition.

The collective bargaining provisions set forth in chapters 3-18 and 60-9A do not apply to any person employed by the Board of Regents or employed by an institution under the authority of the Board of Regents, except for public employees at the South Dakota Services School for the Deaf or the South Dakota School for the Blind and Visually Impaired as provided in § 3-18 -1.

Section 4. That §13-61-3 be AMENDED:

13-61-3. Rules for government of school--Superintendent, instructors, and staff.

The Board of Regents shall make rules for the government of the South Dakota School for the Blind and the Visually Impaired, consistent with the laws of this state, and in compliance with chapter 1-26, and to employ a superintendent and such instructors and staff as may be necessary. The superintendent and the instructional staff shall have professional knowledge concerning the educational needs of students with sensory disabilities. The board may hire one person to serve as the superintendent of ~~both~~ the South Dakota School for the Blind and the Visually Impaired and the administrator of State School for the Deaf South Dakota Services for the Deaf. The person shall receive a single salary.

Section 5. That §13-62-1 be AMENDED:

13-62-1. Location of school--Control by Board of Regents--Purpose.

~~The South Dakota Services for the Deaf, State School for the Deaf,~~ located at Sioux Falls, in Minnehaha County, shall serve as the state's school for the deaf, ~~be~~ under the control of the Board of

Regents and so maintained and managed as to afford ~~an~~ the appropriate education and outreach services to those persons entitled to its benefits.

Section 6. That §13-62-2 be AMENDED:

13-62-2. ~~Superintendent, instructors, and staff~~ Personnel--Qualifications.

The Board of Regents shall employ ~~a superintendent and such instructors and staff personnel~~ as may be necessary ~~for to~~ provide the appropriate level of service through the State School for the Deaf South Dakota Services for the Deaf. The ~~superintendent and the instructional~~ staff shall have professional knowledge concerning the educational needs of students with sensory disabilities. The ~~superintendent~~ administrator shall work towards increasing knowledge and skill in the use of American sign language, to the extent feasible. The board may hire one person to serve as the superintendent of ~~both the~~ South Dakota School for the Blind and the Visually Impaired and the ~~State School for the Deaf~~ administrator of South Dakota Services for the Deaf. The person shall receive a single salary.

Section 7. That §13-62-3 be AMENDED:

13-62-3. Bond of ~~superintendent~~ administrator.

The ~~superintendent~~ administrator shall give a bond to the state in the amount which shall be fixed by the Board of Regents for the faithful discharge of ~~his~~ their duties, which bond shall be approved, recorded, and filed according to the provisions of this code relating to the official bonds of state officers.

Section 8. That §13-62-4 be AMENDED

13-62-4. Duties of ~~superintendent~~ administrator--Employment and compensation of other personnel.

The Board of Regents shall prescribe the duties of the ~~superintendent~~ administrator and shall have the power to employ and fix compensation of all other employees ~~at the school.~~

Section 9. That §13-62-5 be AMENDED:

13-62-5. Preservation of ~~school buildings~~ facility and property.

It shall be the duty of the Board of Regents to preserve and care for ~~buildings, grounds, the facility~~ and ~~all the property belonging to the school~~ of the South Dakota Services for the Deaf.

Section 10. That §13-62-5 be AMENDED:

13-62-6. Persons entitled to ~~admission to school services~~ Admission of nonresident pupils.

All persons under twenty-one years of age, whose hearing impairment precludes successful educational benefits of public schools, who are residents of the state, and capable of receiving instruction are eligible for ~~programs~~ services provided by the ~~state school for the deaf~~ South Dakota Services for the Deaf. Any person who is not a resident of the state, but meets all of the other qualifications included in this section, may ~~be admitted to the school~~ receive services through South Dakota Services for the Deaf, provided the Board of Regents determines that the ~~admittance does~~ provision of services does not exclude eligible residents of the state and upon payment of ~~board, tuition and care~~ charges established by the Board of Regents.

Section 11. That §13-62-12 be AMENDED:

13-62-12. Funds and property applied to benefit ~~of school~~ the South Dakota Services for the Deaf.

It shall be the duty of the Board of Regents to apply all funds, effects, and property which may be received, faithfully to the use and benefit of the ~~school~~ South Dakota Services for the Deaf.

Section 12. That §13-62-13 be AMENDED:

13-62-13. ~~Academic year of school~~ Service period.

It shall be the duty of the Board of Regents to fix the period throughout the year during of the academic year of such school which education and outreach services will be provided through the South Dakota Services for the Deaf, ~~which shall be in compliance with §§ 13-26-1 to 13-26-6, inclusive.~~

Section 13. That §13-62-14 be AMENDED:

13-62-14. Rules for operation ~~of school.~~

It shall be the duty of the Board of Regents to make rules, in compliance with chapter 1-26, as may be necessary for the efficient government and operation of the ~~school~~ South Dakota Services for the Deaf.

Section 14. That §13-62-15 be AMENDED:

13-62-15. Lease of buildings for commercial purposes--Use of lease income.

The Board of Regents may lease for commercial purposes portions of ~~School for the Deaf~~ the South Dakota Services for the Deaf buildings that are no longer regularly and actively used ~~by the School for the Deaf~~ in the conduct of ~~school's~~ its operations. The purposes, terms, and conditions of each lease shall be both economical and consistent with the stewardship of public property. The board may permit a lessee to undertake renovations on the following conditions:

- (1) The construction is of comparable kind and quality as the original structure;
- (2) The board has the right to prior review and approval of renovation designs and specifications that may affect shared building structural systems and related equipment and infrastructure;
- (3) The lessee provides such as-built documentation as the board may require; and
- (4) The lessee agrees title to the renovations shall vest with the board on behalf of the state.

The board shall establish lease rental rates consistent with the rates for commercial leases for comparable properties in Sioux Falls and Minnehaha County. The board may offer the leases to the public in any commercially reasonable manner. Lease income received through the leases by the board pursuant to this section shall be continuously appropriated to the ~~School for the Deaf~~ South Dakota Services for the Deaf for use in maintaining the property and supporting ~~the~~ its operations ~~of the School for the Deaf~~.