The South Dakota Board of Regents met on August 4th, 2020, at the RedRossa Hills/Highlands Ballroom in Pierre and via Zoom teleconference at 9:00 a.m. Central Time with the following members in attendance:

ROLL CALL:

Brock Brown – PRESENT
Pam Roberts, Secretary – PRESENT
Randy Schaefer – PRESENT
Kevin Schieffer – PRESENT
Barb Stork – PRESENT
Jim Thares – PRESENT
Joan Wink – PRESENT
Jim Morgan, Vice President – PRESENT
John Bastian, President – PRESENT

Also present during all or part of the meeting were Dr. Brian Maher, Executive Director and CEO; Jay Perry, System Vice President of Academic Affairs; Nathan Lukkes, Board of Regents General Counsel; Kayla Bastian, System Director of Human Resources; Heather Forney, System Vice President of Finance & Administration; Dr. Janelle Toman, System Director of Communications; Molly Weisgram; Executive Assistant to the CEO and Board; Barry Dunn, SDSU President; José-Marie Griffiths, DSU President; Laurie Nichols, BHSU President; Jim Rankin, SDSM&T President; Tim Downs, NSU President; Sheila Gestring, USD President; Dan Trefz, SDSBVI Superintendent; Kim Wadsworth, SDSD Superintendent; and other members of the Regental system, public and media.
Regent Bastian declared a quorum present and called the meeting to order at 9:00 a.m.

BOARD WORK

1-A Approval of the Agenda

IT WAS MOVED by Regent Wink, seconded by Regent Morgan, to approve the agenda with the request that item 7-E be taken in the following order: Program Productivity, Section Size Policy, and then Program Duplication.

ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

1-B Declaration of Conflicts

There were no declared conflicts.

1-C Approval of the Minutes – Meeting on June 24, 2020; July 22, 2020

IT WAS MOVED by Regent Thares, seconded by Regent Wink, to approve the minutes of the meeting on June 24, 2020 and July 22, 2020.

ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE
Motion passed.

**1-D 2021 SDBOR Meeting Calendar**

Molly Weisgram, Executive Assistant to the Executive Director and Board, explained that the proposed 2021 SDBOR meeting calendar uses the conventional schedule of the Board of Regents and includes a July teleconference meeting of the Board to finalize the Board’s budget recommendations as done in 2020.

The Board was comfortable with the proposed schedule.

**1-E Report from the SDBOR Executive Director**

Dr. Brian L. Maher, Executive Director & CEO, explained that he has been in his position for one month. During that month, he has visited every regental campus and met with each president and superintendent. He is also getting to know the staff in Pierre and each regent. He is learning the history of the system through various conversations that have been very helpful. He noted the amount of talent in Pierre and the campuses. He is working to settle into the role and determining how best to add value to the system. He said he is very much looking forward to his continued work with the Board and system.

**1-F Reports on Individual Regent Activities**

Regent Brown said he has met with the Student Federation Executive Director and is looking forward to working with the group throughout his time on the Board.

IT WAS MOVED by Regent Roberts, seconded by Regent Schaefer, that the Board of Regents dissolve into executive session at 9:15 a.m. on Tuesday, August 4th, to consult with legal counsel and discuss personnel matters, pending and prospective litigation, contractual matters, and marketing or pricing strategies by a board of a business owned by the State when public discussion may be harmful to the competitive position of the business, and that it rise from Executive Session and reconvene in public session at 1:30 p.m. to resume the regular order of business and report its deliberations while in executive session and take any action it deems prudent as a result thereof.

**ROLL CALL:**

Brown – AYE  
Roberts – AYE  
Schaefer – AYE  
Schieffer – AYE  
Stork – AYE  
Thares – AYE  
Wink – AYE  
Morgan – AYE  
Bastian – AYE
Motion passed.

The Board dissolved into executive session.

The Board reassembled in public session at 1:30 p.m.

3-A Report and Actions of Executive Session

Regent Roberts said the Board dissolved into Executive Session at 9:15 a.m. on Tuesday, August 4th, to consult with legal counsel and discuss personnel matters, pending and prospective litigation, contractual matters, and marketing or price strategies by a board of a business owned by the State when public discussion may be harmful to the competitive position of the business, before rising from Executive Session at 1:30 p.m. when the Board reconvened to resume the regular order of business.

While in Executive Session, the Board discussed the matters just described, which included certain recommended actions as set forth in the Secretary’s Report and other matters permitted by law.

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to approve the recommended actions as set forth in the Secretary’s Report and that it publish said Report and official actions in the formal minutes of this meeting.

ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

A copy of the Secretary’s Report can be found on pages _____ to _____ of the official minutes.

3-B Public Comment Period

There were no public comments.

CONSENT AGENDA

IT WAS MOVED by Regent Wink, seconded by Regent Schaefer, to approve consent agenda items 4-A through 4-K.
ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

Academic and Student Affairs

4-A Graduation Lists

Approve the attached BHSU, NSU, SDSU, and USD graduation lists contingent upon the students’ completion of all degree requirements.

A copy of the Graduation Lists can be found on pages ____ to ____ of the official minutes.

4-B (1) New Program Requests – DSU – Minor in Artificial Intelligence and Machine Learning

Authorize DSU to offer a minor in Artificial Intelligence and Machine Learning, as presented.

A copy of the New Program Requests – DSU – Minor in Artificial Intelligence and Machine Learning can be found on pages ____ to ____ of the official minutes.

4-B (2) New Program Requests – DSU – Minor in International Business

Authorize DSU to offer a minor in International Business, as presented.

A copy of the New Program Requests – DSU – Minor in International Business can be found on pages ____ to ____ of the official minutes.

4-B (3) New Program Requests – DSU – Minor in Marketing

Authorize DSU to offer a minor in Marketing, as presented.

A copy of the New Program Requests – DSU – Minor in Marketing can be found on pages ____ to ____ of the official minutes.
4-B (4) New Program Requests – DSU – Minor in Project Management

Authorize DSU to offer a minor in Project Management, as presented.

A copy of the New Program Requests – DSU – Minor in Project Management can be found on pages _____ to _____ of the official minutes.

4-B (5) New Program Requests – SDSMT – Minor in Science, Technology, and Society

Authorize SDSMT to offer a minor in Science, Technology, and Society, as presented. A copy of the New Program Requests – SDSMT – Minor in Science, Technology, and Society can be found on pages _____ to _____ of the official minutes.

4-B (6) New Program Requests – USD – Minor in Organizational Communication

Approve USD’s new program proposal for a minor in Organizational Communication on campus, online, and at CCSF.

A copy of the New Program Requests – USD – Minor in Organizational Communication can be found on pages _____ to _____ of the official minutes.

4-B (7) New Program Requests – BHSU – BAS in Leadership

Authorize BHSU to offer the BAS in Leadership on campus and at BHSU-Rapid City.

A copy of the New Program Requests – BHSU – BAS in Leadership can be found on pages _____ to _____ of the official minutes.

4-C (1) New Certificate Requests – DSU – Project Management (Undergrad)

Authorize DSU to offer an undergraduate certificate in Project Management, as presented.

A copy of the New Certificate Requests – DSU – Project Management (Undergrad) can be found on pages _____ to _____ of the official minutes.

4-C (2) New Certificate Requests – USD – Organizational Communications (Undergrad)

Authorize USD to offer the new undergraduate certificate in Organizational Communication on campus, online, and at CCSF.

A copy of the New Certificate Requests – USD – Organizational Communications (Undergrad) can be found on pages _____ to _____ of the official minutes.

4-C (3) New Certificate Requests – USD – Artificial Intelligence (Undergrad)

Authorize USD to offer the new undergraduate certificate in Artificial Intelligence.
A copy of the New Certificate Requests – USD – Artificial Intelligence (Undergrad) can be found on pages _____ to _____ of the official minutes.

**4-C (4) New Certificate Requests – USD – Artificial Intelligence (Graduate)**

Authorize USD to offer the new graduate certificate in Artificial Intelligence.

A copy of the New Certificate Requests – USD – Artificial Intelligence (Graduate) can be found on pages _____ to _____ of the official minutes.

**4-C (5) New Certificate Requests – USD – Disaster Response (Undergrad)**

Authorize USD to offer the new undergraduate certificate in Disaster Response.

A copy of the New Certificate Requests – USD – Disaster Response (Undergrad) can be found on pages _____ to _____ of the official minutes.

**4-C (6) New Certificate Requests – USD – Leadership in Public Management (Graduate)**

Authorize USD to offer the new graduate certificate in Leadership in Public Management.

A copy of the New Certificate Requests – USD – Leadership in Public Management (Graduate) can be found on pages _____ to _____ of the official minutes.

**4-C (7) New Certificate Requests – USD – Techniques in Public Policy (Graduate)**

Authorize USD to offer the new graduate certificate in Techniques for Public Policy.

A copy of the New Certificate Requests – USD – Techniques in Public Policy (Graduate) can be found on pages _____ to _____ of the official minutes.

**4-C (8) New Certificate Requests – BHSU – Science Communication (Undergrad)**

Authorize BHSU to offer an undergraduate certificate in Science Communication, as presented.

A copy of the New Certificate Requests – USD – Science Communication (Undergrad) can be found on pages _____ to _____ of the official minutes.

**4-D (1) New Specialization Requests – DSU – English Education (BS in English)**

Authorize DSU to offer the English Education specialization in the B.S. in English.

A copy of the New Certificate Requests – DSU – English Education (BS in English) can be found on pages _____ to _____ of the official minutes.
4-D (2) New Specialization Requests – DSU – English for New Media (BS in English)

Authorize DSU to offer the English New Media specialization in the B.S. in English.

A copy of the New Certificate Requests – DSU – English for New Media (BS in English) can be found on pages ____ to ____ of the official minutes.

4-D (3) New Specialization Requests – SDSMT – Biochemistry (BS in Chemistry)

Authorize South Dakota School of Mines & Technology (SDSMT) to offer the specialization in Biochemistry in the B.S. Chemistry degree program as presented.

A copy of the New Certificate Requests – DSU – Biochemistry (BS in Chemistry) can be found on pages ____ to ____ of the official minutes.

4-D (4) New Specialization Requests – USD – Artificial Intelligence (BA/BS in Computer Science)

Authorize USD to offer a specialization in Artificial Intelligence for the BA/BS Computer Science degree.

A copy of the New Certificate Requests – DSU – Artificial Intelligence (BA/BS in Computer Science) can be found on pages ____ to ____ of the official minutes.

4-D (5) New Specialization Requests – USD – Artificial Intelligence (MS in Computer Science)

Authorize USD to offer a specialization in Artificial Intelligence for the MS Computer Science degree.

A copy of the New Certificate Requests – DSU – Artificial Intelligence (MS in Computer Science) can be found on pages ____ to ____ of the official minutes.

4-D (6) New Specialization Requests – USD – Human Dynamics (BS in Biology)

Authorize USD to offer the specialization in Human Dynamics in the B.S. in Biology as presented.

A copy of the New Certificate Requests – USD – Human Dynamics (BS in Biology) can be found on pages ____ to ____ of the official minutes.

4-E (1) New Site Request – DSU – BBA in Finance (online)

Approve DSU’s new site proposal to offer its BBA in Finance online.

A copy of the New Site Request – DSU – BBA in Finance (online) can be found on pages ____ to ____ of the official minutes.
4-E (2) New Site Request – USD – Minor in Psychology (online)

Approve USD’s new site proposal to offer the Psychology minor online.

A copy of the New Site Request – USD – Minor in Psychology (online) can be found on pages _____ to _____ of the official minutes.

4-E (3) New Site Request – USD – BA/BS/Minor in Psychology (CCSF)

Approve USD’s new site proposal to offer the BA/BS in Psychology and minor in Psychology at the Community College for Sioux Falls.

A copy of the New Site Request – USD – BA/BS/Minor in Psychology (CCSF) can be found on pages _____ to _____ of the official minutes.

4-E (4) New Site Request – USD – MA in Elementary and Secondary Education with specialization in Culturally & Linguistically Diverse Learners

Approve USD’s proposal to offer the MA in Elementary-Secondary Education with Specialization in Culturally & Linguistically Diverse Learners programs online.

A copy of the New Site Request – USD – MA in Elementary and Secondary Education with specialization in Culturally & Linguistically Diverse Learners can be found on pages _____ to _____ of the official minutes.

4-E (5) New Site Request – USD – MA in Elementary Education with specialization in Reading Specialist/Literacy Coach

Approve USD’s proposal to offer the MA in Elementary Education with Specialization in Reading Specialist/Literacy Coach online.

A copy of the New Site Request – USD – MA in Elementary Education with specialization in Reading Specialist/Literacy Coach can be found on pages _____ to _____ of the official minutes.

4-E (6) New Site Request – USD – MA in Elementary and Secondary Education with specialization in Science/Technology/Math

Approve USD’s proposal to offer the MA in Elementary-Secondary Education with Specialization in Science, Technology, and Math online.

A copy of the New Site Request – USD – MA in Elementary and Secondary Education with specialization in Science/Technology/Math can be found on pages _____ to _____ of the official minutes.
4-F AAC Guideline 7.1 – Dual/Concurrent Credit Administration Guidelines

Approve the updated version of AAC Guideline 7.1 – Dual / Concurrent Credit Administration Guidelines, as presented in Attachment I.

A copy of the AAC Guideline 7.1 – Dual/Concurrent Credit Administration Guidelines can be found on pages ____ to ____ of the official minutes.

4-G (1) Articulation Agreements – Dakota State University

Approve Dakota State University’s articulation agreement with Minnesota West Community and Technical College, as presented.

A copy of the Articulation Agreements – Dakota State University can be found on pages ____ to ____ of the official minutes.

4-G (2) Articulation Agreements – University of South Dakota

Approve the University of South Dakota’s articulation agreements with Northeast Community College, the Sanford Medical Center, and Avera McKennan, as presented.

A copy of the Articulation Agreements – University of South Dakota can be found on pages ____ to ____ of the official minutes.

4-H Inactive Status and Program Termination Requests – USD

Approve USD’s requests to inactivate the BSED in Physical Education; Latin Minor; and the PhD in Biological Sciences – Bioinformatics Specialization, as presented.

A copy of the Inactive Status and Program Termination Requests – USD can be found on pages ____ to ____ of the official minutes.

4-I Revisions to Terminal Degrees Table – SDSU

Approve the proposed revisions to AAC Guideline 6.2 – Terminal Degrees Table as provided in Attachment I.

A copy of the Revisions to Terminal Degrees Table – SDSU can be found on pages ____ to ____ of the official minutes.

4-J (1) Joint Powers Agreements – Extension Forestry Joint Powers Agreement – SDSU & SD Department of Agriculture

Approve the Joint Powers Agreement set forth in Attachment I.

A copy of the Joint Powers Agreements – Extension Forestry Joint Powers Agreement – SDSU & SD Department of Agriculture can be found on pages ____ to ____ of the official minutes.
4-J (2) Joint Powers Agreements – Herbicide Injury Study Joint Powers Agreement – SDSU & SD Department of Agriculture

Approve the Joint Powers Agreement set forth in Attachment I.

A copy of the Joint Powers Agreements – Herbicide Injury Study Joint Powers Agreement – SDSU & SD Department of Agriculture can be found on pages ____ to ____ of the official minutes.

4-J (3) High School Dual Credit Program Joint Powers Agreement – BOR & DOE

Approve the Joint Powers Agreement between the South Dakota Board of Regents and the Department of Education for the High School Dual Credit program as set forth in Attachment I.

A copy of the High School Dual Credit Program Joint Powers Agreement – BOR & DOE can be found on pages ____ to ____ of the official minutes.

4-K Naming Request – USD – Department of Health Sciences

Approve USD’s request to rename the Department of Health Sciences to the Department of Public Health and Health Sciences.

A copy of the Naming Request – USD – Department of Health Sciences can be found on pages ____ to ____ of the official minutes.

CONSENT AGENDA – INFORMATIONAL ITEMS – NO BOARD ACTION NECESSARY

4-L Interim Actions

A copy of the Interim Actions can be found on pages ____ to ____ of the official minutes.

4-M Capital Projects List

A copy of the Capital Projects List can be found on pages ____ to ____ of the official minutes.

ACADEMIC AND STUDENT AFFAIRS

5-A (1) BOR Policy Revisions – BOR Policy 4:10, 4:11, 4:13 and 4:38 (Second Reading)

Dr. Jay Perry, System Vice President of Academic Affairs, explained that as a result of the elimination of collective bargaining after the passage of Senate Bill 147 during the 2020 Legislative Session, BOR Policies 4:10, 4:11, 4:13 and 4:38 are being revised to reflect changes needed since the university faculty collective bargaining agreement with the Council of Higher Education was set to expire at the end of June.
The proposed policies have undergone extensive review since the first reading at the June Board meeting. Board staff received feedback from institutional administrators, faculty senates, individual faculty members, and representatives from COHE who participated in the last collective bargaining sessions. The system Academic Affairs Council received all such feedback for further review and discussion. He said while it is recommended that the Board approve the policies today because the system needs to have these policies in place immediately due to the end of the collective bargaining agreement, it is anticipated that these policies will undergo additional review.

Dr. Perry provided a high level summary of the changes since the first readings.

IT WAS MOVED by Regent Wink, seconded by Regent Brown, to approve the second and final readings of the BOR Policy Revisions – BOR Policy 4:10, 4:11, 4:13 and 4:38 (Second Reading) as shown in the attachments of the agenda item.

ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

A copy of the BOR Policy Revisions – BOR Policy 4:10, 4:11, 4:13 and 4:38 (Second Reading) can be found on pages ____ to ____ of the official minutes.

5-A (2) BOR Policy Revisions – Title IX Policy Revisions

Nathan Lukkes, Board of Regents General Counsel, explained that the Board previously approved the first reading of the new Title IX policy at its June meeting, which stemmed from the Department of Education’s release of the final Title IX rule. As a reminder, he provided a high level description of the key provisions of the new regulations.

General Counsel Lukkes explained that the proposed policy changes will ensure compliance with the new Title IX rules, which become effective on August 14th. Additionally, he explained that the procedures afforded therein will provide enhanced due process at the institutional level to all involved, with the hearing conducted, and a proposed decision drafted, by a legally trained neutral party.

IT WAS MOVED by Regent Wink, seconded by Regent Schaefer, to approve the second and final reading of the new BOR Policy 1:17 set forth in Attachment I, and the first and final reading of
the proposed revisions to BOR Policies 3:4, 1:18 and 1:17.1, all of which shall be effective on
August 14th.

ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

A copy of the BOR Policy Revisions – Title IX Policy Revisions can be found on pages ____
to ____ of the official minutes.

**5-B Research Park Reports/USD Discovery District Annual Meeting**

Nathan Lukkes, Board of Regents General Counsel, explained that the Board’s August meeting
serves as the time and place for the USD Research Park, Inc. (dba USD Discovery District) annual
meeting. Dwaine Chapel provided an overview of happenings at the Research Park at SDSU.
Mitch Nachtigall shared updates from Ascent Innovation. Mark Brown provided current status of
operations at the USD Discovery District.

General Counsel Lukkes said the annual meeting is the time and place for the Board to appoint
directors to the Board of Directors of the USD Discovery District. The current makeup of the
Board of Directors is set forth in Attachment I of the agenda item. He noted that there are three
terms set to expire in 2020, which are currently occupied by Bob Sutton, Dave Kapaska, and Deb
Peters, all of which are seeking reappointment for their second 3-year term. As such, there are
three appointments pending before the Board at its meeting, which would become effective upon
approval.

Additionally, he explained that the USD Discovery District is requesting that the Board approve
the bylaw amendments set forth in Attachment II of the agenda item, which would have the effect
of allowing the Board of Directors to consist of between ten and fifteen members instead of the
current fixed membership of eleven.

IT WAS MOVED by Regent Wink, seconded by Regent Morgan, to approve the Bylaws
amendments set forth in Attachment II and to reappoint Bob Sutton, Dave Kapaska and Deb Peters
and appoint Jim Abbott to serve three-year terms on the Board of Directors of the USD Discovery
District.
ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – NAY
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

A copy of the Research Park Reports/USD Discovery District Annual Meeting can be found on pages ____ to ____ of the official minutes.

5-C COVID-19 Resolution Extension/Fall Semester Planning Placeholder

Nathan Lukkes, Board of Regents General Counsel, explained that the Board previously discussed and approved a resolution at its April meeting authorizing certain emergency exceptions/waivers of Board Policy to accommodate the necessary adjustments resulting from the COVID-19 pandemic, with the approval of the applicable Board committee, to allow the system and its institutions to address and accommodate the current situation in a timely manner without running afoul of Board Policy. At the Board’s May meeting the foregoing authorization was extended to run through the Board’s regularly scheduled August meeting. Given the fluid and unpredictable nature of the COVID-19 pandemic, and out of an abundance of caution, the system desires to extend the aforementioned authorization through the Board’s regularly scheduled December meeting. The foregoing will provide maximum flexibility in the event the COVID-19 pandemic necessitates unanticipated action during the fall semester which would otherwise conflict with established policy.

General Counsel Lukkes explained that the proposed resolution would extend the granting of emergency exceptions/waivers to BOR Policy between now and the Board’s regularly scheduled December meeting, with the approval of the applicable Board committee, to allow the system and its institutions to respond to and address unforeseen circumstances which could result from the COVID-19 pandemic this fall without running afoul of BOR Policy.

Furthermore, he referenced the revised COVID-19 Face Covering Protocol in Attachment II of the agenda item which came as a result of the follow-on conversations after the July meeting with the presidents and others regarding necessary adjustments to allow for effective implementation in various settings.

Regent Wink agreed that the resolution was appropriate as it gave the institutions more flexibility to react to what was might occur during the fall semester.
Regent Stork explained that the Board has been notified by parents that more courses are moving online than previously articulated to them.

President Gestring said USD has 1,142 courses that will remain traditional face-to-face; 340 courses will be made hybrid, which mean at minimum 25% face-to-face; and 4.5% were transitioned to online only due to space limitation. The number of classes moved online due to medical accommodations is less than 15.

President Dunn said SDSU has 3,214 sections of classes, and of those 225 moved online mostly due to the size of the class and facility availability. SDSU is also using the hybrid model that USD is using to keep face-to-face connection but also utilize the facilities with the recommended spacing.

In response to a question by Regent Brown, President Dunn said that certain programs may be more effected than others because they had larger class sizes. President Dunn said the COPS team is looking at a way to mitigate the cost differential between the in-person and online courses. The differential is about $120/course. The presidents are working with their foundations to cover that cost differential.

SDSU Provost Hedge indicated that because there hasn’t been a great way through the Banner system to communicate hybrid courses to students, they are asking faculty members teaching the courses to reach out to them.

Provost Hedge described the hybrid experience per the request of regents. He said cohorts or platoons of students would be assigned a certain day in the classroom and then a portion of the learning would be taught online with interactive assignments, etc.

President Downs confirmed that 30 courses (4.5% of total offerings) have been converted to online at NSU.

Regent Roberts reiterated that there have been concerns from students and parents that too many courses are going online. She said when the Board agreed per the urging of the presidents that the universities would reopen in the fall, they expect the universities to provide face-to-face classes in order to fulfill the promise.

Regent Schieffer summarized by saying the universities should not convert courses to online instruction on a whim. These change needs to be a necessity. He proposed that the executive director look into this issue, use judgement to ensure that that theme is being followed, and to the extent possible that there is reasonable consistency in making these decisions. In addition, Regent Stork said the requests to convert a course online based on medical need of the faculty member must be scrutinized rather than subjectively granted. As important, these requests need to be granted consistently across the system.

IT WAS MOVED by Regent Wink, seconded by Regent Schieffer, to approve the resolution set forth in Attachment I and the revisions as proposed to the face coverings protocol in Attachment II.
ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

A copy of the COVID-19 Resolution Extension/Fall Semester Planning Placeholder can be found on pages ____ to ____ of the official minutes.

BUDGET AND FINANCE

6-A (1) BOR Policy Revisions – BOR Policy 4:1 – General Terms and Appointments (Second Reading)

Kayla Bastian, System Human Resources Director, explained that due to the elimination of collective bargaining for university faculty, effective July 1, 2020, there are certain elements of the COHE agreement that now need to be implemented into BOR policy. She explained that the proposed policy revisions to BOR Policy 4:1 address faculty contracts that are currently addressed in the COHE agreement. She described the substantive changes in the draft policy.

HR Director Bastian explained that the only revision since the first reading in June modifies Section 3.6 to provide the ability of the university to require faculty to provide course materials for online courses up to 30 days prior to the first day of classes to ensure compliance with institutional quality assurance review process. The former language limited this only to new faculty in their first term, however, the quality assurance process would apply to all online courses so the language needs to be expanded to ensure compliance.

IT WAS MOVED by Regent Roberts, seconded by Regent Thares, to approve the second and final reading of the proposed revisions to BOR Policy 4:1.

ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – ABSENT
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

A copy of the BOR Policy Revisions – BOR Policy 4:1 – General Terms and Appointments (Second Reading) can be found on pages ____ to ____ of the official minutes.

6-A (2) BOR Policy Revisions – BOR Policy 4:5 – Faculty Compensation (First Reading)

Kayla Bastian, System Human Resources Director, explained that due to the elimination of collective bargaining for university faculty, effective July 1, 2020, there is now a need to include faculty compensation provisions in Board policy. This policy establishes the overarching guidance for faculty compensation administration, and seeks to provide a framework that gives flexibility to the universities and Board in the administration of the compensation plan. She described the substantive changes in the draft policy.

IT WAS MOVED by Regent Roberts, seconded by Regent Brown, approve the first reading of the proposed BOR Policy 4:5 – Faculty Compensation.

ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefer – AYE
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

A copy of the BOR Policy Revisions – BOR Policy 4:5 – Faculty Compensation (First Reading) can be found on pages ____ to ____ of the official minutes.

6-B SDSU Airport Hangar Preliminary Facility Statement

Mike Holbeck, Interim SDSU Vice President for Finance & Administration, explained that SDSU is submitting its Preliminary Facility Statement for the design and construction of a new Airport Hangar. SDSU requests a building committee be formed to assess and retain a build team to provide project design, cost projections, construction documentation, and construction services for the Airport Hangar. The Aviation program currently occupies a hangar at the Brookings Municipal Airport, which is owned and operated by the University. The existing hangar has the capacity to
store six aircraft. Due to the growth of the program and fleet of aircraft, the program requires additional aircraft storage space.

Interim VP Holbeck said the new facility would allow all aircraft to be stored in a University owned hangar. Added storage space would reduce stacking, which would reduce potential for aircraft damage resulting from excessive aircraft moving. The improved access to aircraft would decrease the time required to move aircraft in and out of storage. The current hangar configuration requires moving multiple aircraft to access an aircraft stored at the rear of the hangar. A new facility would be designed to house two aircraft per hangar bay to alleviate the crowding of fleet.

Regent Stork summarized by saying the proposed project estimates $1.8 million which would subtract the annual lease paid to house three additional aircrafts in the SDSU hangar which could provide an opportunity to alleviate the time to move aircrafts and possible damage to the aircrafts in moving them. She suggested that other options be explored, such as a $1 million project for an additional hangar that would house five planes.

President Dunn said the request is to give SDSU permission to plan, which would be the opportunity to explore all of these options. He said this also gives time to better understand the impact of the COVID pandemic on the demand for pilots.

In response to a question by Regent Schieffer, Interim VP Holbeck indicated that the net gain from the program demand has increased by $200,000 to $300,000 per year.

Heather Forney, System Vice President of Finance & Administration, said since this would add square footage to campus it would eventually require legislation.

IT WAS MOVED by Regent Roberts, seconded by Regent Stork, to approve SDSU’s Preliminary Facility Statement for design and construction of a new airplane hangar for their Aviation Program.

ROLL CALL:

Brown – AYE
Roberts – AYE
Schaefler – NAY
Schieffer – AYE
Stork – AYE
Thares – AYE
Wink – AYE
Morgan – AYE
Bastian – AYE

Motion passed.

A copy of the SDSU Airport Hangar Preliminary Facility Statement can be found on pages ____ to ____ of the official minutes.
Regent Bastian reconvened the meeting of the Board of Regents at 9:00 a.m.

PLANNING SESSION

7-A System Governance

Dr. Brian L Maher, Board of Regents Executive Director, suggested that the coupling of system governance with the tuition and academic governance agenda items will make for a more productive conversation and will limit any redundancy of topics. So with the permission of the Board, he would like to move past this item. The Board agreed.

A copy of the System Governance agenda item can be found on pages ____ to ____ of the official minutes.

7-B Proposed Process Outline for Senate Bill 55

Dr. Brian L. Maher, Board of Regents Executive Director & CEO, said during South Dakota’s 2020 Legislative Session, Senate Bill 55, a bill requiring the Board of Regents to assemble a task force to study the operations and functions of the institutions of higher education under the board's authority, was passed into law.

He explained that he has been working to create structure for how to address Senate Bill 55, and in doing so first met with the four appropriators on the task force: Senator Ryan Maher, Senator Reynold Nesiba, Representative Hugh Bartels, and Representative Chris Karr. He visited with them at a high-level on how to address the issues in Senate Bill 55 and is planning to meet with them each individually as well.

Dr. Maher said Senate Bill 55 presents many opportunities to address questions about how the system operates, dive into the question of whether it is doing the best it can, and whether it is as efficient as it should be. Furthermore, he said the Senate Bill 55 process presents an opportunity to tell the system’s stories as it really is doing incredible things.

As a former member of the Blue Ribbon Task Force, he said he has been thinking about possible parallels between the work required by Senate Bill 55 and the work of the Blue Ribbon Task Force. He said while the Blue Ribbon Task Force was “owned” by the governor and shepherded by two legislators, Senate Bill 55 would be chaired by him as the executive director of the Board of Regents.

Because the bill outlines nine specific tasks, he explained that he’d like to group these into three areas: Administration, Infrastructure, and Academic Programs. He said grouping the tasks into these areas helped to clarify who else would serve on the task force. Because this work should include regents, he said the task force will include Regent Thares, who will chair the Administration subcommittee; Regent Wink who will chair the Academic Programs subcommittee; and Regent Stork who will chair the Infrastructure and Auxiliary Programs
subcommittee. He said the Presidents also need to be involved and engaged, so he asked President Gestring to join the Administration subcommittee; President Nichols to join Academic Programs subcommittee; and President Dunn to join the Infrastructure subcommittee.

Dr. Maher said there are at least three more available positions on the task force, which could be filled out by other legislators, business and industry members, or other citizens of South Dakota.

Regent Schieffer suggested that in addition to the nine issues outlined in the bill, the task force should also look at the issue of consolidating institutions. He said it’s a difficult issue but one that continues to be raised from time to time so may be appropriate in the scope of the task force.

Regent Stork urged that the future of higher education be considered as this is an opportunity to consider some creative solutions for the different and future modeling of education. Both scrutinizing the details of the system as well as considering the big picture of higher education is important for positioning the system for the maximum effectiveness and efficiency.

Dr. Maher said the first meeting of the task force will take place on October 7-8 in Rapid City. This meeting would be held in conjunction with the next Board meeting, and it will provide historical context as well as a broad look at the future of higher education. The subcommittee work will be launched during the second meeting, proposed for November. After November, the task force will break with the possibility of subcommittees meeting between November and April, recognizing these are also the months of the 2021 Legislative Session. He said the third meeting would take place in April, fourth meeting in May, and the last meeting would be held in June.

Regent Stork said she would like the regents’ suggestions on other possible members of the task force. Dr. Maher agreed and said it would be helpful if the regents would send recommendations directly to him and he will work with subcommittee chairs to determine the membership. He would like to finalize the membership within two weeks.

Regent Schaefer recognized the immense amount of work scheduled to be done with an aggressive and condensed timeline.

President Dunn asked about the activities for the subcommittees and how many times the subcommittees might need to meet between the task force meetings. In response, Dr. Maher said he wants the subcommittees to drive the issues, but he doesn’t have a clear picture of how many meetings would be required to do so.

Regent Wink said the Chronical of Higher Education had a recent article about the pros and cons of consolidation and asked that Dr. Jay Perry or Dr. Janelle Toman share this article with the regents.

Regent Stork said the size of the Board central office continues to be a topic of discussion as well. She said it is important to address the issue, and the findings might show the office is either too big or too small. Regent Bastian agreed and pointed out that the central office is specifically addressed in numbers 2 and 3 of the bill.
Regent Schaefer emphasized the need to address the concern around duplication of programs within the task force.

President Downs suggested it may be helpful to have someone on the task force from K-12.

A copy of the Proposed Process Outline for Senate Bill 55 can be found on pages ____ to ____ of the official minutes.

7-C (1) SDBOR Strategic Plan – Concluding Current Strategic Plan

Dr. Brian L. Maher, Board of Regents Executive Director, said the Board’s strategic plan has run its course, so the system finds itself in transition from the current strategic plan to the next strategic plan. As a conclusion to the current strategic plan, he asked Dr. Jay Perry, System Vice President of Academic Affairs, to provide a brief summary of the system’s success in meeting the goals established in the strategic plan.

To that end, Dr. Perry presented results of the strategic plan that was written in 2014 to run through 2020. He said the regents, universities, and special schools met five goals, were headed in the right direction on 10 that weren’t yet reached, and stayed the same or went backward on five.

During a discussion that revolved around the system’s retention rates, Regent Thares asked how South Dakota’s retention rates compared to those of neighboring states. Dr. Perry said he could gather the information share with the Board.

A copy of the SDBOR Strategic Plan – Concluding Current Strategic Plan can be found on pages ____ to ____ of the official minutes.

7-C (2) SDBOR Strategic Plan – Considerations for New Strategic Plan

Dr. Brian L. Maher, Board of Regents Executive Director & CEO, explained that he wants the Board of Regents to be a mission-driven (not just goal-driven) organization and feels that the next strategic plan should set a vision for the system.

He explained that the work of the Senate Bill 55 task force will aid the strategic planning process. Considering the anticipated timing of the Senate Bill 55 report isn’t until next summer, he suggested the Board consider holding on the next strategic plan until that report is available.

The Board was comfortable waiting on the next strategic plan. Regents said in addition to the Senate Bill 55 report, waiting would afford Dr. Maher the time he needed to thoroughly learn the system.

A copy of the SDBOR Strategic Plan – Considerations for New Strategic Plan can be found on pages ____ to ____ of the official minutes.
Heather Forney, System Vice President of Finance & Administration, said with the impact of COVID-19 and an increased appetite for courses offered via hybrid and distance methods, now is a good opportunity for the Board of Regents to discuss and review pricing differentials that have been established within the Board of Regents system. To that end, she provided an overview of the current differentiated rates and an explanation for why these differentials exist as well as the advantages and disadvantages of these rates. Additionally, she pointed out the main drivers of tuition increases each year.

Regent Thares asked that the Board get regional and national comparisons to understand if South Dakota’s tuition trends are similar or different than other states. Vice President Forney said she would gather this information.

Regent Roberts said we need a deeper dive into our tuition structure with recommendations for simplification and transparency. She said someone from each campus needs to be involved in the study as each institution is different.

Regent Wink asked if students who have had a change from in-person to online courses due to COVID will have to pay more. Vice President Forney said that because a current statute requires that off-campus courses cost more than on-campus courses, their education will cost more.

It was noted, however, that the campuses have found a way for the foundations to scholarship these students the difference so the change in instructional method should be cost neutral to them.

Regent Schieffer said we need to have transparent conversations with legislators now in order to explain this unintended consequence of the statute and the way the institutions are rectifying it during this COVID scenario. He said at the time Dr. Maher should also explain that the Board is considering pursuing a change to the statute come January as the market demand is changing. He said interest in changing statute needs to be explained now so legislators are not surprised come the start of the 2021 legislative session.

Regent Roberts said this statute is something the Board has been struggling with for years. COVID just tipped the scale in terms of highlighting the need for a statute change.

Regents agreed that the realities of higher education have evolved so much that the statute is no longer helpful.

In a discussion about whether online courses need to be considered “off campus” courses, General Counsel Lukkes said that although the statute doesn’t address it specifically, it is clear that even in recent conversations with the legislature’s Government Operations and Audit Committee and the Joint Committee on Appropriations, the intent of the statute clearly includes in the “off campus” definition any instructional method that is not the traditional face-to-face format.

In conclusion, Vice President Forney said she will work with Dr. Maher to develop the appropriate membership and charge of the committee to examine the tuition structure.
A copy of the Tuition Landscape – Differentiated Rates can be found on pages ____ to ____ of the official minutes.

7-E (1) Academic Governance – Program Duplication

Dr. Jay Perry, System Vice President of Academic Affairs, explained that program duplication within the university system continues to emerge as an issue of concern for legislators, regents, and institutions. He said program duplication continues to be an issue of internal debate as institutions want to expand programming to entice students to their campuses, yet other institutions want to protect their turf. The good news is that three fourths of the system’s programs are unduplicated, so it is not a rampant problem and when there is duplication there is most often a good reason for it.

Historically, the Board of Regents has authorized program duplication after weighing whether such duplication is necessary or unnecessary. The program approval process (including both the intent to plan and new program request stage) requires institutions to provide evidence to the Board in support of why duplication of programming is necessary.

The Board has approved duplicative programming in areas where the volume of demand from students and the workforce exceeds the capacity of a single institution. Nursing provides the most obvious example of this. The undergraduate nursing major exists at both SDSU and USD. Nursing is the most popular major within the university system in terms of undergraduate graduates – nursing graduates represented 10% of the entire university system’s bachelor’s degrees awarded in FY19, equal to the number of graduates in the next three most popular majors (elementary education, psychology, and mechanical engineering).

State statutes explicitly provide authorization for institutions to duplicate programming in certain fields. As a few examples, state statutes authorize education programming (e.g., teacher preparation programs) at BHSU, DSU, NSU, SDSU, and USD. SDSMT and SDSU both have statutory authority to offer engineering programs. SDSU, USD, and SDSMT are authorized to offer programming in the sciences or natural sciences. The authorizing statutes for all six institutions have language that allows programs not specifically stated in statute as authorized by the Board of Regents.

Dr. Perry said the major issue with duplication is that we don’t have clear parameters of what is duplication and what isn’t. Rather, we are identifying duplication through the “know it when we see it” method. He thinks the time has come when we should revisit the curriculum aspects of institutional missions so we have better guidance internally for when and where there is not duplication within the system. The conflict comes in where there isn’t anything formal to help guide.

In response to a question by Regent Stork, Dr. Perry acknowledged that some of the turf boundaries historically have been developed through handshake deals. He said handshake deals do not continue to define the boundaries especially since programs are ultimately approved by the Board.
Regent Schaefer said this is an issue that needs to be flushed out internally and handled by the executive director and staff.

The Board members confirmed that unnecessary duplication does concern the Board and this should be handled. They also agreed that there are some justifiable duplications, so criticism may be from those who haven’t reviewed it closely. This issue may fall into the area of needing to do a better job of telling our story.

President Dunn said data science and computer science are emerging fields, which might look like duplication. However, the market trend and the world’s way of functioning is leaning toward technology. We need to consider economic changes and the developing needs of society when considering whether duplicative courses and programs are appropriate.

Recognizing this as Dr. Perry’s last meeting as the System Vice President of Academic Affairs with the Board of Regents, Regents Bastian and Wink as well as Dr. Maher recognized his important and incredible contributions to the work of the South Dakota Board of Regents system.

A copy of the Academic Governance – Program Duplication can be found on pages ____ to ____ of the official minutes.

### 7-E (2) Academic Governance – Section Size Policy

Dr. Jay Perry, System Vice President of Academic Affairs, explained the current Section Size policy, which is intended to require institutions to use instructional resources efficiently and limits the number of low enrolled courses that an institution may offer annually.

He said that between 2014 and 2019, the percentage of system sections exceeding the section size policy limitations remained steady, averaging between 2.9% and 3.9%. For FY2020, this percentage increased to 4.1%. The increase is likely due to temporary reporting disruptions related to the student information system conversion (i.e., Colleague to Banner). Given these challenges, the increase in the 2020 is reasonable. Over the last five years, section size policy compliance has generally remained consistent.

He noted that the COVID-19 crisis greatly altered standard planning options for delivering face-to-face coursework for the FY21 academic year. Social distancing requirements demanded new approaches, resulting in the Board’s authorization of a Temporary Suspension of the Section Size Policy for FY21.

Dr. Perry described current policy issues: no enforcement mechanism exists within the policy; the policy does not apply to one-third of the eligible course sections; and institutional requests for new or revised courses often include requests for instructional method designations that are outside the section size policy with insufficient justification for why.

Because 4,000 out of the 13,000 total course sections are not subject to the section size policy currently, Regent Wink said the Committee on Academic Affairs and Senate Bill 55 will have to take a close look at this.
President Nichols offered an observation. She said at the beginning of this policy’s life, the guidelines were strictly followed. Over the years, though, this has become much looser and there have been many exceptions. She agreed that whether through Senate Bill 55 or Committee on Academic and Student Affairs, this has to be handled.

Regent Schieffer thanked President Nichols for her thoughts and asked the presidents to handle this before it gets to the Committee on Academic and Students Affairs and keep that which must be wrestled to a minimum. He said the work is in the field.

A copy of the Academic Governance – Section Size Policy can be found on pages ____ to ____ of the official minutes.

7-E (3) Academic Governance – Program Productivity

Dr. Jay Perry, System Vice President of Academic Affairs, explained that the Board reviewed the 2020 Program Productivity Report at June 2020 meeting. During that meeting, the Board agreed to delay a decision on approving continuation plans for academic programs that failed to meet program productivity thresholds pending additional information from institutions. That documentation will come to the Board for further review at the October Board meeting.

He said as the Board prepares to undertake a study of the university system in compliance with SB 55 from the 2020 legislative session, program productivity policies and enforcement will be part of those discussions. One of the nine specific items addressed in SB 55 is a “review of the academic majors with low enrollments and low numbers of graduates.”

He summarized the minimum levels for the number of graduates in academic degree programs established in BOR Policy 2:23. The minimum graduate production thresholds are:

- 5 associate degrees/year or 25 during the five-year period reported
- 7 bachelor’s degrees/year or 35 during the five-year period reported
- 4 master’s degrees/year or 20 during the five-year period reported
- 1 professional and doctoral degree/year or 5 during the five-year period reported

By policy, academic degree programs that do not meet the established minimum number of graduates will be inactivated unless the Board of Regents approves a continuation plan. Collaborative programs between two or more institutions may combine their total number of graduates (e.g., 6 graduates at SDSU and 8 graduates at USD are considered 14 graduates in the program) provided there is detailed explanation of the collaboration (e.g., sharing of required courses, shared faculty, etc.). Programs flagged through the program productivity review process require a formal review at the institutional level. Following the review, the institution assigns one of five designations to the program for Board consideration: 1) Retain Due to Critical Need; 2) Retain with Further Review Required; 3) Consolidate with Another Program on Campus; 4) Consolidate with Another Program within the System; 5) Terminate.

Dr. Perry identified a number of current policy issues: the lack of an in-depth analysis to retain programs due to critical need or to retain programs with further review; the lack of a methodology
for analyzing the cost of continuing a program; the lack including the specializations within majors, minors or certificates; the insufficient evidence and methodology for projecting enrollment and graduates from programs in new program proposals; and the current tuition model’s limits to the effectiveness of promoting collaborative programs as they are potentially more expensive for students.

Regent Bastian asked for further explanation of how the tuition issue meets the program productivity issue. Dr. Perry said collaborative programs between institutions are negatively impacted from a tuition perspective because they need to be online and thus are more expensive for students based on the current tuition model.

Dr. Perry said we need to do more to encourage collaborative programs as it is an advantage for South Dakota as no other state’s system is structured like ours.

Regent Stork asked Dr. Perry to comment on what he thinks are priority considerations for improving the process. Dr. Perry said he thinks the following are priority:

1. Establish consistent methodology for determining the cost of maintaining programs that do not meet program productivity standards.
2. Establish policies that include specializations within majors, minors, and certificates in the program productivity process.
3. Establish formal guidelines related to encouraging collaborative opportunities.

The regents discussed whether there is an issue with the policy or if the problem lies in the fact that it hasn’t been enforced. Dr. Perry said the policy is good, we just haven’t had the appropriate rationale to make good decisions on when a program should be terminated or when the justification is valid.

In fact, Dr. Perry said while the Board will review more thorough justification for those programs on the underproductive list at its October meeting, he still doesn’t think the information will be as drilled down as necessary specifically because of the lack of sophisticated data systems needed to make good decisions.

Regent Schieffer said this is an issue the Board office and institutions need to work out. The only thing the Board needs to hear is if there is major disagreement or the policy isn’t being followed.

Regent Wink recommended that graduate numbers shouldn’t be the only thing that justifies a program, it should also have a fiscal metric and community-need metric.

Regent Bastian recommended that the deeper dive fall under the purview of the Board’s Committee on Academic and Student Affairs.

Regent Wink said money can be saved through this program review, and it will be a critical effort for both Committee on Academics as well as the Academic Programs subcommittee on the Senate Bill 55 task force.
A copy of the Academic Governance – Program Productivity can be found on pages ____ to ____ of the official minutes.

**ADJOURNMENT**

IT WAS MOVED by Regent Schieffer, seconded by Regent Stork, to adjourn the meeting.

**ROLL CALL:**

Brown – AYE  
Roberts – AYE  
Schaefer – AYE  
Schieffer – AYE  
Stork – AYE  
Thares – AYE  
Wink – AYE  
Morgan – AYE  
Bastian – AYE  

Motion passed.

The meeting adjourned at 11:30 a.m.
Secretary’s Executive Session Report

The Board convened in Executive Session pursuant to the vote of the majority of the Board present and voting at its public meeting on Tuesday, August 4, 2020, in accordance with SDCL 1-25-2 to discuss matters authorized therein. Following executive session, the Board will meet in open session to discuss and take official action on the matters set forth below, all other matters discussed were consistent with the requirements of SDCL 1-25-2, but no official action on them is being proposed at this time.

Recommended Actions:

2-C – Authorize the General Counsel to proceed with the legal matter(s) within the parameters discussed.

2-D – Authorize settlement in the stated matter upon terms and conditions substantively similar to those set forth in Attachment I of Item 2-D, subject to final review and approval of the Executive Director and the General Counsel, and to authorize any action(s) necessary and appropriate to effectuate the same.

2-E – Recommend that the Board approve the contract extension and terms of the addendum to the employment contract for USD Men’s Basketball Coach, Todd Lee.

2-F (1) – Approve the salary adjustments and appointments as outlined in Attachment I of the Secretary’s Report.

2-F (2) – Award one (1) year of prior service credit toward tenure and one (1) year of prior service credit toward promotion for Dr. Joshua Stroschein (DSU).

2-F (3) – Adopt the recommendation of the executive director and deny SDSU Faculty Grievance No. 2020-1.

2-G – Authorize settlement in the stated matter upon terms and conditions substantively similar to those set forth in Attachment I of Item 2-G, subject to final review and approval of the Executive Director and General Counsel, and to authorize any action(s) necessary and appropriate to effectuate the same.
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### APPOINTMENTS REPORTING TO THE PRESIDENT, SUPERINTENDENT or EXECUTIVE DIRECTOR

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DRAFT