

**BOARD OF REGENTS
MINUTES OF THE MEETING
October 7, 2020**

The South Dakota Board of Regents met on October 7, 2020 at the Rapid City Plaza Civic Center in Rapid City, South Dakota, with the following members present:

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
John Bastian, President – PRESENT

Also present during all or part of the meeting were Dr. Brian L. Maher, Board of Regents Executive Director and CEO; Nathan Lukkes, Board of Regents General Counsel; Michele Anderson, Internal Auditor; Kayla Bastian, Director of Human Resources; Heather Forney, System Vice President of Finance & Administration; Dave Hansen, System Chief Information Officer; Janelle Toman, 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; ADD; and other members of the Regental system and public and media.

WEDNESDAY, OCTOBER 7, 2020

Regent Bastian declared a quorum present and called the meeting to order at 10:25 a.m.

1-A Approval of the Agenda

IT WAS MOVED by Regent Brown, seconded by Regent Stork, to approve the agenda with one adjustment: remove item 4-E.

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 August 4-5, 2020

IT WAS MOVED by Regent Stork, seconded by Regent Schieffer, to approve the minutes of the meeting on August 4-5, 2020.

ROLL CALL:

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

Motion passed.

IT WAS MOVED by Regent Roberts, seconded by Regent Morgan, to dissolve into Executive Session at 10:30 a.m. on Wednesday, October 7th, 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 2:45 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.

3-A Report and Actions of Executive Session

Regent Roberts said the Board dissolved into Executive Session at 10:30 a.m. on Wednesday, October 7th, 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 2:45 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 Brown, 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 Welcome and Presentation by SDSMT President Jim Rankin

SDSMT President Jim Rankin welcomed the Board to Rapid City and shared information about the South Dakota School of Mines & Technology.

3-C Report of the Executive Director

Dr. Brian L. Maher, Executive Director & CEO, introduced new Superintendent of the South Dakota School for the Blind & Visually Impaired and new Superintendent of the South Dakota School for the Deaf, Dan Trefz and Kim Wadsworth, respectively.

He introduced a biotransformation planning effort in response to the Governor’s call for South Dakota’s “next big thing.” He said several entities including SDSU, SDSMT, legislators, industry partners, and the Governor’s office have been in the discussion. He asked SDSU President Dunn and SDSMT President Rankin to provide an update on the biotransformation project from their perspectives. The presidents provided an update on the efforts, partnerships, potential, and anticipated private sector participation.

Dr. Maher said he has been in the middle of the biotransformation conversations and will bring another update to the Board after the 2021 legislative session.

Last Dr. Maher provided an update on the COVID mitigation efforts for the fall semester. He said temporary restrictions have proven effective. He suggested that leadership at all levels continues to learn and work to find modifications that provide the best educational experience possible.

Regent Stork asked about university infection rates, quarantine timeframes, and the triggers for bringing a campus to Level 2 versus 3. The presidents provided their current infection rates, describing the number of positive cases and those in quarantine. Presidents noted that they are considering increasing their facility capacity rates to 50% rather than 25-30% as was done this fall to accommodate more students in each class. They commented on the mask policy and said the masks make faculty/staff and many students more comfortable. They felt they should keep the requirement, especially right now as we are headed into the flu season and colder weather.

The Board commended the herculean effort of the presidents and universities for bringing the students safely back to campus. Various regents said they have received several concerns from parents and students who feel that the number of face-to-face courses offerings should be

increased. The regents urged as many face-to-face courses as possible in the spring semester and felt this was more critical than worrying about whether face coverings should be required or not.

Additional questions were addressed and answered about college football.

3-D Reports on Individual Regent Activities

There were no reports.

3-E Reports from Individual Presidents and Superintendents

President Downs said the Division II universities would like to compete in winter athletic competition but the testing requirements are very expensive. They would appreciate CRF funding support for help with the cost of testing past December 31, 2020.

3-F Student Federation Report

Macy Halverson, Student Federation Chair, explained that the Student Federation retreat was held via Zoom with the Board office staff in September. She said it was informative and the federation is looking forward to the legislative session.

The full Student Federation Report can be found on pages ____ to ____.

3-G Public Comment Period

There were no public comments.

CONSENT AGENDA

IT WAS MOVED by Regent Stork, seconded by Regent Brown, to approve consent agenda items 4-A through 4-M.2, with the exception of 4-E which was removed from the agenda.

President Stork recognized the good work of the collaborations presented in 4-A.2.

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 (1) New Program Request – DSU & SDSU – PhD in Computer Science

Authorize DSU and SDSU to offer PhDs in Computer Science, as presented

A copy of the New Program Request – DSU & SDSU – PhD in Computer Science can be found on pages _____ to _____ of the official minutes.

4-A (2) New Program Request – NSU – MSED in Special Education

Authorize NSU to offer the MSED in Special Education, on-campus and online.

A copy of the New Program Request – NSU – MSED in Special Education can be found on pages _____ to _____ of the official minutes.

4-A (3) New Program Requests – SDSMT – MS in Industrial Engineering

Authorize SDSMT to offer the M.S. in Industrial Engineering, as presented.

A copy of the New Program Request – SDSMT – MS in Industrial Engineering can be found on pages _____ to _____ of the official minutes.

4-B New Specialization Request – NSU – Visual Impairments

Authorize NSU to offer the Visual Impairments specialization in the MSED in Special Education, on-campus and online.

A copy of the New Specialization Request – NSU – Visual Impairments can be found on pages _____ to _____ of the official minutes.

4-C Intent to Plan – NSU – BA in Global Language and Culture

Authorize NSU to develop a program proposal for the BA in Global Language and Culture, as presented.

A copy of the Intent to Plan – NSU – BA in Global Language and Culture can be found on pages _____ to _____ of the official minutes.

4-D Accelerated Program Request – USD – Occupational Therapy, O.T.D

Approve USD's proposal to offer an accelerated pathway to the Doctor of Occupational Therapy (OTD) as presented.

A copy of the Accelerated Program Request – USD – Occupational Therapy, O.T.D can be found on pages _____ to _____ of the official minutes.

4-E Agreement on Academic Cooperation – NSU – REMOVED FROM THE AGENDA

4-F (1) Revisions to BOR Policy 4:35 – Conflict of Interest (First and Final Reading)

Move to (1) waive the two-reading requirement of By-Laws Section 5.5.1, and (2) approve the first and final reading of proposed revisions to BOR Policy 4:35, as presented in Attachment I

A copy of the Revisions to BOR Policy 4:35 – Conflict of Interest (First and Final Reading) can be found on pages _____ to _____ of the official minutes.

4-F (2) Revisions to BOR Policy 5:5:3 – Tuition and Fees: Special Course Types (First and Final Reading)

Move to (1) waive the two-reading requirement of By-Laws Section 5.5.1, and (2) approve the first and final reading of proposed revisions to BOR Policy 5:5:3, as presented in Attachment I.

A copy of the Revisions to BOR Policy 5:5:3 – Tuition and Fees: Special Course Types (First and Final Reading) can be found on pages _____ to _____ of the official minutes.

4-G Naming Request – SDSU – Community Practice Innovation Center

Approve SDSU’s request to establish the Community Practice Innovation Center (CPIC), as presented.

A copy of the Naming Request – SDSU – Community Practice Innovation Center 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 Post Professional Doctor of Occupational Therapy (OTD) program, 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 – DSU

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 – DSU can be found on pages _____ to _____ of the official minutes.

4-J Articulation Agreements – SDSU

Approve South Dakota State University's articulation agreement with Riverland Community College, as presented.

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

Budget and Finance

4-K M&R Projects

Approve the requested maintenance and repair projects as described in this item.

A copy of the M&R Projects can be found on pages ____ to ____ of the official minutes.

4-L FY21 Minnesota Reciprocity

Approve the Minnesota reciprocity rates for FY21 and authorize the Executive Director to execute the Memorandum of Understanding.

A copy of the Minnesota Reciprocity can be found on pages ____ to ____ of the official minutes.

4-M (1) Capital Asset Purchase Greater than \$500,000

Approve SDSU's request to purchase a 3D Microfabrication System Photonic Professional GT2 using approximately \$525,590 of grant funds.

A copy of the Capital Asset Purchase Greater than \$500,000 –SDSU can be found on pages ____ to ____ of the official minutes.

4-M (2) Capital Asset Purchase Greater than \$500,000

Approve SDSMT's request to purchase a Dual-Beam Focused Ion Beam Scanning Electron Microscope using approximately \$1,280,731 of grant funds.

A copy of the Capital Asset Purchase Greater than \$500,000 –SDSMT can be found on pages ____ to ____ of the official minutes.

ROUTINE INFORMATIONAL ITEMS – NO BOARD ACTION NECESSARY

4-N Interim Actions of the Executive Director

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

4-O Accreditation Status Report

A copy of the Accreditation Status Report can be found on pages ____ to ____ of the official minutes.

4-P Capital Projects List

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

4-Q Building Committee Report

A copy of the Building Committee Report can be found on pages ____ to ____ of the official minutes.

4-R Public Service Activity Report FY20

A copy of the Public Service Activity Report FY20 can be found on pages ____ to ____ of the official minutes.

4-S Internal Control Review on Payables

A copy of the Internal Control Review on Payables can be found on pages ____ to ____ of the official minutes.

ACADEMIC AND STUDENT AFFAIRS

5-A Program Productivity Report

Dr. Janice Minder, Interim System Vice President for Academic Affairs, explained that Attachment I of the agenda item provides the list of FY19 programs that have fallen below the program productivity review thresholds set by the Board. The institutional responses to these identified programs have been reviewed by the central office and are provided in Attachment II.

Regent Stork recognized the data-driven effort that Dr. Minder has put together to assist in making informed decisions before discontinuing unproductive programs. She was concerned that this new effort won't apply to the current review cycle.

Dr. Minder suggested that in June 2021 the Board should determine what it wants to measure going forward in order to make good decisions about discontinuing programs. This timing will allow Senate Bill 55 to play out and it will give her additional time to work through the data.

IT WAS MOVED by Regent Wink, seconded by Regent Stork, to approve the recommended actions from the campuses regarding the programs flagged in the program productivity review as presented in Attachments I and 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 Program Productivity Report can be found on pages _____ to _____ of the official minutes.

5-B BOR Policy 2:10 – Grades and Grade Point Averages (First Reading)

Dr. Janice Minder, Interim System Vice President for Academic Affairs, explained that after academic amnesty is granted students are disadvantaged by having to wait an entire year before being allowed to return to the university. Satisfactory performance for a semester should be sufficient evidence that the student can be successful moving forward. AAC discussed the issue during their retreat in September and agreed with proposed edits provided in Attachment I of the agenda item noting that it will further support the intent of the policy.

IT WAS MOVED by Regent Wink, seconded by Regent Schaefer, to approve the first reading of the proposed revisions to BOR Policy 2:10, as presented in Attachment I.

ROLL CALL:

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

Motion passed.

A copy of the BOR Policy 2:10 – Grades and Grade Point Averages (First Reading) can be found on pages _____ to _____ of the official minutes.

5-C BOR Policy 5:5:4 – Tuition and Fees: Fees (First Reading)

Dr. Janice Minder, Interim System Vice President for Academic Affairs, stated that system international student staff members submitted the proposed policy revisions which are intended to clarify fee assessment and compliance with federal tracking requirements. This policy has been shared with the system accounts receivable staff and has been reviewed by the Academic Affairs Council and the Business Affairs Council. The councils recommend the Board approve the policy clarification/change.

IT WAS MOVED by Regent Wink, seconded by Regent Thares, to approve the first reading of the proposed revisions to BOR Policy 5:5:4, as presented in Attachment I.

ROLL CALL:

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

Motion passed.

A copy of the BOR Policy 5:5:4 – Tuition and Fees: Fees (First Reading) can be found on pages _____ to _____ of the official minutes.

5-D Spring 2021 Academic Calendar

Dr. Janice Minder, Interim System Vice President for Academic Affairs, explained that the system office, Council of Presidents, Academic Affairs Council, and various other stakeholders (including but not limited to financial aid staff, academic records staff, students, campus leadership and others) have been discussing/exploring the Spring 2021 calendar. Specifically, discussions have centered on public health policy, the start and end date of the Spring 2021 calendar, and the spring break period.

Dr. Maher said that after conversations with several constituent groups, it is obviously that there is no unanimity in this decision. Students, however, have indicated clearly that they want their holidays. The biggest question that remains is whether we should keep spring break on the calendar as originally planned. Students would like the spring break, but the provosts have recommended breaking up the spring break week and sprinkling those days as “reading days” throughout the year.

The group discussed the intent of breaking up spring break, which is to avoid student travel. After further discussion, the group wasn't convinced that incorporating several three and four day weekends would actual avoid travel and might unintentionally encourage it.

IT WAS MOVED by Regent Roberts, seconded by Regent Schaefer, to leave the academic calendar as scheduled for Spring 2021.

ROLL CALL:

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

Motion passed.

A copy of the Spring 2021 Academic Calendar can be found on pages ____ to ____ of the official minutes.

BUDGET AND FINANCE

6-A HEFF Cash Flow Statement

A copy of the HEFF Cash Flow Statement can be found on pages ____ to ____ of the official minutes.

6-B FY22 Proposed Legislation

A copy of the FY22 Proposed Legislation can be found on pages ____ to ____ of the official minutes.

6-C BOR Policy 4:5 – Faculty Compensation (Second Reading)

Kayla Bastian, Director of Human Resources, explained that due to the elimination of collective bargaining for university faculty, effective July 1, 2020, there is a need for a Board policy on faculty compensation provisions. 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 said there have been no substantive changes to the policy since the first reading at the August Board of Regents meeting.

IT WAS MOVED by Regent Roberts, seconded by Regent Morgan, to approve the second and final reading of the proposed BOR Policy 4:5 – Faculty Compensation.

ROLL CALL:

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

Motion passed.

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

6-D BHSU Library and Learning Center Renovation Facility Design Plan (FDP)

Kathy Johnson, BHSU Vice President of Finance & Administration, and Randy Culver, BHSU Vice President of Facilities and Sustainability, explained that BHSU is requesting approval of its Facility Design Plan (FDP) for the renovation, remodel, and replacement of infrastructure of the E.Y. Berry Library. They provided details on the project including the anticipated construction timeline.

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to approve BHSU's Facility Design Plan for the E.Y. Berry Library and Learning Center Renovation at a cost not to exceed \$9,695,000, funded by a combination of HEFF, M&R, and other funds.

ROLL CALL:

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

Motion passed.

A copy of the BHSU Library and Learning Center Renovation Facility Design Plan can be found on pages ____ to ____ of the official minutes.

6-E USD Health Sciences Building Facility Design Plan (FDP)

USD President Sheila Gestring described the need for the new Health Sciences Building. She requested approval of the Facility Design Plan for the project.

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to approve USD's Facility Design Plan for the new Health Sciences Building at a cost not to exceed \$22,000,000.

ROLL CALL:

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

Motion passed.

A copy of the USD Health Sciences Building Facility Design Plan can be found on pages _____ to _____ of the official minutes.

6-F NSU Auxiliary System Property Acquisition for Parking

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to authorize NSU to purchase three properties described as 1516 S. Herret Street, Lot 2, Randall's First Subdivision; 1522 S. Herret Street, Lot 6, Block 1 Normal Addition; and 1526 S. Herret Street, Lot 7, Block 1 Normal Addition in Aberdeen, South Dakota, for a total cost of \$262,786.

ROLL CALL:

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

Motion passed.

A copy of the NSU Auxiliary System Property Acquisition for Parking can be found on pages ____ to ____ of the official minutes.

6-G BOR Policies 2:29 and 5:6 – FICA Re-Employment Exemption (First Reading)

Heather Forney, System Vice President of Finance & Administration, explained that the proposed policy changes to BOR Policy 5:6 and BOR Policy 2:29 are to make them align with each other and IRS Regulations, IRC Section 3121(b)(10) – Student FICA Exception. The changes also address Re-employment Exemptions (previously known as Unemployment) in BOR Policy 5:6 to align with the standards used for FICA Exemptions.

IT WAS MOVED by Regent Roberts, seconded by Regent Schieffer, to approve the first reading of the proposed BOR Policies 2:29 – Definitions of Credits and Related Institutional Requirement and 5:6 – Student FICA and RA Exemption, as presented.

ROLL CALL:

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

Motion passed.

A copy of the BOR Policies 2:29 and 5:6 – FICA Re-Employment Exemption (First Reading) can be found on pages ____ to ____ of the official minutes.

ADJOURNMENT

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

ROLL CALL:

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

Bastian – AYE

Motion passed.

The meeting adjourned at 5:00 p.m.

DRAFT

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 Wednesday, October 7, 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-D – Authorize settlement upon terms and conditions substantively similar to those set forth in Attachment I, and to authorize any action(s) necessary and appropriate to effectuate the same.

2-E – Authorize commencement of the litigation discussed herein, and any action(s) necessary and appropriate to effectuate the same.

2-H – Adopt the proposed findings and conclusions set for in Attachment I pertaining to DSU Faculty Grievance No. 2020-2.

2-J (1) – Approve the salary adjustments and appointments as outlined in Attachment I.

2-J (3) – Award an honorary posthumous Bachelor of Science degree in Agriculture to Logan Nelson (SDSU).

2-J (4) – Accept the factual findings, conclusions and action taken in the earlier decision, effectively denying SDSU Assistant Professor EEO Appeal No. 2020-02.

2-J (5) – Award three (3) years of prior service credit toward tenure and three (3) years of prior service credit toward promotion for Dr. Sonja Kraus (USD).