

**BOARD OF REGENTS
MINUTES OF THE MEETING
October 7-8, 2015**

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**BOARD OF REGENTS
MINUTES OF THE MEETING
October 7-8, 2015**

The South Dakota Board of Regents met on October 7-8, 2015 in Aberdeen at the Student Union of Northern State University with the following members present:

Randy Schaefer, President
Bob Sutton, Vice President
Terry Baloun, Secretary
Jim Morgan, Regent
John Bastian, Regent
Harvey Jewett, Regent
Kathryn Johnson, Regent
Joe Schartz, Regent
Kevin Schieffer, Regent – Absent

Also present during all or part of the meeting were Mike Rush, Executive Director and CEO; James Shekleton, General Counsel; Paul Turman, System Vice President for Academic Affairs; Nathan Lukkes, System Assistant Vice President for Research and Economic Development; Michele Anderson, Internal Auditor; Barbara Basel, Director of Human Resources; Monte Kramer, System Vice President of Finance and Administration; Dave Hansen, Director of Information Technology; Jay Perry, Director of Academic Programs; Molly Hall-Martin, Director of Student Preparation & Success; James Abbott, USD; David Chicoine, SDSU; Jose-Marie Griffiths, DSU; Tom Jackson Jr., BHSU; and SDSU; Heather Wilson, SDSM&T; Craig Johnson, UC-SF; Guilherme Costa, Aaron Melville, BOR; JoEllen Lindner, Alan LaFave, Greg Smith, Debbi Bumpous, Katie Graham, Cody Folden, Greg Blair, Nicole Arnold, Joelle Lien, Kelly Duncan, NSU; E. Lee Felder, Jr., Michael Card, Jim Moran, Roberta Ambur, Sheila Gestring, Kim Grieve, USD; Judy Dittman, Stacy Krusemark, Marcus Garstecki, DSU; Laurie Nichols, SDSU; Rod Custer, BHSU; Claudean Hluchy, SDSBVI/SDSD; Loren Paul, Ryan Rolfs, SDEA; Bill Adamson, COHE; David Green, Kevin Bacon, Perkins + Will; Rich Naser, USD Research Park; Nancy Karlen, Public Concern; and other members of the public.

WEDNESDAY, OCTOBER 7, 2015

Regents' President Randy Schaefer called the meeting of the Board of Regents to order at 12:50 p.m. on October 7, 2015, and declared a quorum present.

BOARD WORK

Approval of the Agenda

IT WAS MOVED by Regent Sutton, seconded by Regent Schartz to approve the agenda with the removal of items 5-P, Update on Efforts to Enhance System Resources to Prevent Sexual Violence and 6-K, ADR&DL Planning Funds. All members voted AYE. The MOTION CARRIED.

Approval of the Minutes

IT WAS MOVED by Regent Bastian, seconded by Regent Morgan to approve the minutes of the meeting on August 10-12, 2015.

Regent Jewett noted that during the August meeting he referenced a document that he provided to the Board members during the conversation regarding the Student Conduct Code. He wanted to ensure that this document will be attached to the full meeting minutes.

All members voted AYE. The MOTION CARRIED.

2016 BOR Meeting Calendar

Ms. Molly Weisgram introduced the proposed dates for the 2016 meeting calendar, noting that the dates are the same as proposed during the August meeting but the locations varied slightly. She also noted that some of the Council of Presidents and Superintendents meeting dates had been tweaked.

Ms. Weisgram also introduced the concept of a rolling calendar and explained that this process of meeting setting would begin in March/April.

Regent Jewett asked the Board to consider the possibility of moving the August meeting to a week earlier than proposed. Upon investigation, it was discovered that this would not allow enough preparation time between the June and August meetings. Therefore the group decided to stay with the proposed calendar.

Regent Jewett requested that the August retreat utilize more fully the days reserved for it. Regent President Schaefer said he will consider this when preparing for that meeting.

IT WAS MOVED by Regent Johnson, seconded by Regent Baloun to approve the schedule of 2016 meeting dates for the Board of Regents, and to agree to adopt the revolving calendar method of establishing meeting dates by selecting dates and locations for the coming year's meeting at the conclusion of each current meeting. All members voted AYE. The MOTION CARRIED.

A copy of the 2016 BOR Meeting Calendar can be found on pages 3292 to 3296 of the official minutes.

CONSENT AGENDA

Regents' President Schaefer explained that the consent agenda is created to include items that are not anticipated to generate discussion because of their routine manner. He offered that all items will be approved on a single vote unless any regent would like to pull an item from the consent agenda and discuss it in committee.

A copy of the Consent Agenda can be found on page 3297 of the official minutes.

IT WAS MOVED by Regent Johnson, seconded by Regent Sutton to approve the consent agenda items 3-A through 3-E. All members voted AYE. The MOTION CARRIED.

CONSENT AGENDA: Academic and Student Affairs

3-A Revisions to Terminal Degree Table – SDSU

Approve South Dakota State University's request for the Ph.D., MFA, M.Arch., D.Arch., and MS in Arch coupled with an ID undergraduate degree, and Doctor of Design (coupled with an ID undergraduate degree) be added as recognized terminal degrees for the Interior Design (ID) discipline. A copy of Revisions to Terminal Degree Table – SDSU can be found on pages 3298 to 3299 of the official minutes.

3-B.1 Naming Requests: NSU – The Millicent M. Atkins School of Education

Authorize Northern State University to name its School of Education as the "Millicent M. Atkins School of Education" in recognition of her bequest to endow the elementary education programs offered through School of Education. A copy of the Millicent M. Atkins School of Education can be found on pages 3300 to 3304 of the official minutes.

3-B.2 Naming Requests: SDSU – Testing Center, Morrill Hall, Stanley J. Marshall Center

Authorize South Dakota State University to rename the Ethel Austin Martin building as the Testing Center, the Administration Building as Morrill Hall, and the Stanley J. Marshall HPER Center to the Stanley J. Marshall Center. A copy of the Testing Center, Morrill Hall, Stanley J. Marshall Center can be found on pages 3305 to 3308 of the official minutes.

3-B.3 Naming Requests: SDSU – Ness Division of Management and Economics

Authorize South Dakota State University to rename permanently the Division of Management and Economics as the "Ness Division of Management and Economics," in recognition of the support for the University and its Division of Management and Economics that Larry and Diane Ness have provided. A copy of the SDSU – Ness Division of Management and Economics can be found on pages 3309 to 3312 of the official minutes.

CONSENT AGENDA: Budget & Finance

3-C M&R Projects

Approve the institutional maintenance and repair projects described in this document. A copy of the M&R Projects can be found on pages **3313** to **3315** of the official minutes

3-D BHSU Well Use Agreement

Approve the proposed well use agreement between Black Hills State University and the City of Spearfish and that it authorize the Executive Director to execute the agreement on its behalf. A copy of the BHSU Well Use Agreement can be found on pages **3316** to **3321** of the official minutes.

3-D SDSU Planning

Approve of SDSU's requests to increase planning services for the Student Wellness Center Addition to \$340,000 and to increase planning services for the Visual Arts Building to \$480,000 total that will be funded using university support fees. A copy of SDSU Planning can be found on page **3322** of the official minutes.

PLANNING AND RESOURCE DEVELOPMENT

Welcome and Presentation by NSU President James Smith

President James Smith welcomed regents and guests to Northern State University. He introduced NSU provost Dr. Alan LaFave who presented information related to a specific element of the university's strategic plan, internationalizing NSU.

Reports on Individual Regents Activities

Regent John Bastian briefly reported that a few weeks previously he had the opportunity to visit a university in Japan where he visited with the director of the international center. He indicated that there is an existing cooperative exchange established between this university and Dakota State University.

A copy of the Reports on Individual Regents Activities can be found on page **3323** of the official minutes.

Report and Actions of the Executive Session

Upon convening at 8:00 a.m. on Wednesday, October 7, the Board dissolved into executive session in order to discuss personnel matters, pending and prospective litigation, collective bargaining, contractual matters, and to consult with legal counsel; rising from executive session at 12:30 p.m. to report its deliberations in executive session and to resume the regular order of business.

Regent Baloun reported that while in executive session, the Board considered personnel matters, pending and prospective litigation, collective bargaining, contractual matters, consulted with legal counsel, and gave directions to its executive director and general counsel concerning these matters.

IT WAS MOVED by Regent Baloun, seconded by Regent Schartz, that the Board approve directions given to the executive director and the general counsel with respect to matters discussed in executive session, that it:

1. Accept the recommendations of the hearing officer and enter an order denying SDSM&T Administrator Grievance No. 14-001.
2. Accept the recommendations of the hearing officer and enter an order denying SDSU Faculty Grievance No. 15-001.
3. Accept the recommendations of the hearing officer and enter an order denying SDSU Professional Grievance No. 15-001.
4. Award the title of Professor Emeritus for Dr. Ronald Lindahl (USD). A copy of the special resolution can be found on page **3324** of the official minutes.
5. Award an honorary Doctorate of Public Service to Ms. Ann Rhoades (SDSM&T).
6. Approve the request for a one (1) year extension of time toward tenure consideration for Dr. Lisa Elliott (SDSU).
7. Approve the request for Professor David Cartrette (SDSU) to postpone his sabbatical leave approved for the Spring 2016 semester to the Spring 2017 semester.
8. Approve the appointment of Guilherme Costa as general counsel designate for the system with a start date of November 4, 2015 and to assume responsibility as general counsel on January 22, 2016. The annualized salary will be \$145,000. Accept the resignation of system Director of Human Resources Barbara Basel effective October 9.
9. Approve the personnel actions as submitted by the Board office, campuses, and special schools. A copy of the personnel actions can be found on pages **3325** to **3474** of the official minutes.

All members voted AYE. The MOTION CARRIED.

Report of the Executive Director

Dr. Mike Rush reported that he provides a weekly memo to the board to keep them updated on his activities. He also noted that the regents are members of the Association of Governing Boards (AGB). He invited the board members to attend the annual conference on April 17-19, 2016. He also indicated that AGB has a Trustee Advocacy Board and asked for nominations for a regent to serve as a representative.

Regent Jewett provided insight into the highly valuable information shared at AGB. He indicated that he would like to participate.

Dr. Rush introduced Guilherme Costa who will soon join the Board of Regents' central staff as legal counsel. He also recognized Barbara Basel who resigns her position as System HR Director as she joins the staff of Maricopa Community College in Arizona.

A copy of the Interim Actions of the Executive Director can be found on pages 3475 to 3482 of the official minutes.

Statewide Attainment Goal

Ms. Weisgram explained that during this year's August Board of Regents' retreat in Pierre, the Board discussed the anticipated future workforce needs and the possibility of setting a statewide postsecondary education attainment goal.

At that time, the regents were presented information that indicated roughly 65% of jobs in South Dakota will require some level of postsecondary education by 2020. Recognizing that only 38% of working age South Dakotans currently have a postsecondary credential, it was noted that South Dakota needs a fresh approach. One idea was adopting a statewide attainment goal that would be shared by all postsecondary entities in South Dakota.

Ms. Weisgram explained that setting a 65% postsecondary education attainment goal for citizens age 25-34 would correspond to the future workforce needs.

She additionally noted that the adoption of a statewide attainment goal could be the beginning of a strategic and collaborative direction toward addressing the need. With the adoption of the statewide attainment goal, the Regents would have a platform to begin a new conversation aimed at building partnerships and allies within the state. These partnerships could participate in developing the critical strategies to achieve the goal.

Dr. Rush explained that this kind of goal tends to capture the attention of Governors and lawmakers and ties into economic development since the retention rate of South Dakotans effects the metric of citizens that have a postsecondary degree. He explained that in Idaho, the state board took the lead in establishing the goal, but now the chamber, K-12, local advocacy groups and more have adopted this goal. He explained that this effort changed the conversations around education. He said this is not the same set of goals as in our strategic plan. This is a goal that is participatory.

Regent Joe Schartz noted that focusing on age 25-34 seems logical but he wanted to better understand the metric that suggests only 38% of our current workforce has a postsecondary credential. He referenced the data that indicated that currently only 38% of working age South Dakota's have a postsecondary degree. However, he wanted to know if the metric would change when only considering individuals within the 25-34 age group. Dr. Rush agreed that the current metric of 38% would likely increase. He said there is benefit to narrowing to this age group since we would be able to better direct the strategies to those who will be driving the economy over the next several years.

Regent Kathryn Johnson asked if the entities that we would need to partner with have been engaged to this point. Dr. Rush indicated that these conversations have not yet taken place.

She suggested that if the partners have a chance to participate in this goal setting, they may be more inclined to participate in the actions of achieving the goal. She would like the motion to include language that indicates that the 65% is provisional.

IT WAS MOVED by Regent Johnson, seconded by Regent Morgan, to adopt a statewide postsecondary education attainment goal with the provisional aim of 65% of South Dakota citizens, aged 25-34, holding a postsecondary credential by the year 2025 and the provisional metric may be adjusted with input from partners and stakeholders. All members voted AYE. The MOTION CARRIED.

A copy of the Statewide Attainment Goal can be found on pages 3483 to 3489 of the official minutes.

Revision to By-Laws: Two Reading Policy

Ms. Weisgram explained that a revision to the by-laws is being proposed in order to implement a two reading policy. In essence, the two reading policy establishes the requirement that any adoptions of or changes to Board of Regents' policy and by-laws shall finally be passed only after they have had official action at two separate Board of Regents' meetings. She explained that this policy would allow for deliberate changes and time to thoughtfully process the implications of these changes.

Regent Bob Sutton explained that nearly all public bodies use this strategy.

Regent Harvey Jewett wanted to provide clarity that this action relates to the Board of Regents' policy manual which includes both the by-laws and policies therein. He indicated his belief that the revision is too narrowly written. He would feel more comfortable if the two reading policy included material policy actions.

IT WAS MOVED by Regent Jewett, seconded by Regent Johnson to adopt the Board of Regents' by-laws revisions as specified in Attachment I with the addition of material policy actions.

Regent Baloun respectfully disagreed with the motion on the floor. He would not like to add "material policy actions." He said the regents already have several mechanisms that would allow them to defer or postpone an issue.

Regents Jewett and Johnson voted AYE. Regents Bastian, Sutton, Schaefer, Schartz, Baloun, and Morgan voted NAY. The MOTION FAILED.

IT WAS MOVED by Regent Baloun, seconded by Regent Sutton to adopt the Board of Regents' by-laws revisions as specified in Attachment I. All members voted AYE. The MOTION CARRIED.

Dr. Rush indicated that he is sympathetic to Regent Jewett's comments regarding changes to major policy actions. He said staff is alert to this concern and will be conscious of providing adequate review time for material policy actions.

A copy of the Revision to By-Laws: Two Reading Policy can be found on pages 3490 to 3497 of the official minutes.

2016 Proposed Legislation

Dr. Monte Kramer explained that the topics included on this agenda item compose a preliminary list of Board-sponsored legislation, which will be updated and finalized in December. He touched upon the topics on the list and noted that several additional items, which also may result in possible legislation, are being discussed in separate Board items.

Dr. Kramer touched upon the Alcohol Sales Task Force that is currently investigating alcohol sales in designated spots at the universities. Currently, state statute and Board policy permits alcohol to be served, but not sold, in designated spots for designated activities.

The regents asked about the composition of the Alcohol Sales Task Force. Regent Schartz asked that student representatives be included if they are not already. Additionally, Regent Baloun requested that the task force members survey surrounding states and provide that information in their update to the Board at the December meeting.

Regent Sutton indicated that the legislation will need to be drafted carefully so that it is not written so narrowly that there is no flexibility. However, it will need to be written narrowly enough that legislators are quite clear about the designated locations. This would ensure that there are no mistaken assumptions by legislators that alcohol could be sold in areas such as residence halls.

Dr. Shekleton provided perspective on an additional proposed piece of legislation that relates to the process of state authorization of postsecondary institutions. The Secretary of State believes it would be useful to transfer some functions related to the state authorization process from the Secretary of State to the Board of Regents office. The reason for this change stems from the ordinary operation of the state authorization process. A request for authorization to establish an institution in South Dakota requires an informed review of the accreditation documents to determine whether or not an institution has appropriate accreditation status, and it also requires working with accreditation agencies in connection with student complaints. The only place in state government that is already familiar with that type of documentation is the Board of Regents. If proposed legislation is supported, these administrative functions would devolve upon the Board of Regents. The Board staff made clear that it could only recommend the proposal to the Board on the condition that the Board be authorized to assess a fee that at a rate that would permit the Board to staff and to operate the program appropriately.

Dr. Rush gave further explanation to the State Authorization Reciprocity Agreement (SARA) and explained that this participation is currently a directive from the Governor and should be included in statute. Also, he noted that at this time it is voluntary for each institution to participate in the agreement; however, we envision combining this and the previously mentioned efforts into one staffing entity since they involve similar functions. This combination could require the need for all institutions to be assessed a fee, rather than only those who are currently volunteering to be part of the agreement.

Additional to the board-sponsored legislation, Dr. Kramer and Dr. Shekleton provided an overview of anticipated campus-sponsored legislation.

A copy of the 2016 Proposed Legislation can be found on pages 3498 to 3500 of the official minutes.

Proposed Legislation to Amend South Dakota's misprision of felony statute to create postsecondary confidential advisors for victims of sexual violence.

Dr. Shekleton explained that the Board and universities have invested, and continue to invest, substantial time and resources to reduce the incidence of sexual violence at postsecondary institutions. He explained that, among other initiatives, the Board office has developed legislation to amend the South Dakota misprision of felony statute to create postsecondary confidential advisors for victims of sexual violence. The misprision of felony statute requires any person with the knowledge of a felony to report the incident to law enforcement. This requirement does not encourage the victims to report nor does it help them get the assistance they need for healing.

Dr. Shekleton explained that the draft legislation seeks to promote two public policy objectives. First, it should permit postsecondary institutions to assist victims of sexual assault more effectively. Second, by achieving the first objective, it should protect the community as a whole more effectively by increasing the number of reports that are made public for use in internal institutional disciplinary procedures or criminal prosecutions.

He said that the bill arises from the recognition that many persons who have been sexually violated want to keep the matter secret. They do not want to be social impacted, i.e. object of gossip. This draft statute would accommodate this common human tendency in order to provide victims a means to speak in confidence about what has happened with institutional personnel who can help them contact specialized professionals, who can help them understand what the institution can do to protect victims from assailants, who can help with arrangements for adjustments to class schedules and thus increase the probability that the victims can obtain necessary assistance to enable them to begin to cope with the trauma of sexual violence without drawing attention to themselves or giving up their studies.

He indicated that the military uses a similar model as what is proposed in the draft policy. The military process has shown that this confidential reporting option afforded more effective assistance to victims and, counterintuitively, that, when given time and assistance to cope with the trauma, more victims chose to report incidents of sexual violence to disciplinary personnel and to law enforcement officials.

Molly Weisgram explained the concerns of the Student Affairs Council in regard to the misprision of felony statute, noting that it is not victim centered if staff have to stop the student in sharing his/her experience in order to explain that if the situation qualifies as a felony offence, they will be obligated to report to law enforcement.

Regent Jewett commented that once a report is made to law enforcement only the prosecutor decides if the case goes forward. The victim loses control of this process.

President Heather Wilson was invited to explain her perspective of the legislation. She noted that this is an important step in providing an environment that gives students the information they

need and the control they deserve after an event occurs. She explained that the military model shows that confidential victim advisor program works.

Regent Johnson asked for clarification about when we could not ensure confidentiality. Dr. Shekleton explained that exception clauses in the draft bill identify situations when a confidential victim advisor would not be able to keep the information confidential, for instance, when there is impending harm to other identified individuals.

Dr. Shekleton explained that the draft bill has been distributed to key stakeholders to get their feedback.

Regent Bastian asked for clarification about why particular legislators were selected for distribution of the draft legislation. He recommended that Judiciary members as well as all public, private, and tribal institutions also be provided the draft legislation.

IT WAS MOVED by Regent Johnson, seconded by Regent Baloun to approve the draft legislation for first reading and to take it up again at the December Board meeting. All members voted AYE. The MOTION CARRIED.

A copy of the Proposed Legislation to Amend South Dakota's misprision of felony statute to create postsecondary confidential advisors for victims of sexual violence can be found on pages **3501** to **3518** of the official minutes.

BOR Policy 1:31 – Exclusion of Members of the Public for Disruption of Institutional Activities or for Misconduct

The postponed motion from the August BOR meeting was taken up by the Board. That motion was to approve BOR Policy 1:31 – Exclusion of Members of the Public for Disruption of Institutional Activities or for Misconduct. The motion was made by Regent Johnson and seconded by Regent Sutton.

Regent President Randy Schaefer asked if there was any discussion.

Regent Bastian explained that he appreciated the opportunity to have time to review the item and after additional review supports it.

All members voted AYE. The MOTION CARRIED.

A copy of the BOR Policy 1:31 – Exclusion of Members of the Public for Disruption of Institutional Activities or for Misconduct can be found on pages **3519** to **3524** of the official minutes.

ACADEMIC AND STUDENT AFFAIRS

Student Federation Report

Chance Costello reported that the Student Federation had its annual planning retreat in Pierre in September where the attendees were able to have the opportunity to dialog with board staff. He

also announced that Students of Higher Education Days (SHED) is planned for January 24-25. In preparation for SHED, he explained that the Federation plans to host trainings for students on effective techniques for lobbying legislators.

Regent Kathryn Johnson asked that Mr. Costello query the student federation members in order to better understand the feelings of the student body regarding the proposed legislation related to the exception to the misprision of felony law and establishment of confidential reporting processes for victims of sexual violence on university campuses. She hopes that he will be able to present this information in December.

Student Organization Awards – NSU

JoEllen Lindner, Vice President of Student Affairs and Dean of Students, presented the NSU Student Organization awards. The NSU Honors Program accepted the award for Academic Excellence; the Northern Art Club accepted the award for Community Service; and the Campus Activities Board (CAB) accepted the award for Organizational Leadership:

A copy of the Student Organization Awards – NSU can be found on pages 3525 of 3526 the official minutes.

Institutional Items of Information

The Board received Institutional Items of Information submitted by Black Hills State University, Dakota State University, Northern State University, South Dakota School of Mines and Technology, South Dakota State University, University of South Dakota, South Dakota School for the Blind and Visually Impaired, and South Dakota School for the Deaf. No action required. A copy of the Institutional Items of Information can be found on pages 3527 to 3582 of the official minutes.

Discovery District (USD Research Park)

Mr. Rich Naser provided an overview of the master planning process for the Discovery District. He explained they had secured funding for the first phase of the project. He reminded the group that consultants Architecture Inc./Perkins & Will were selected to prepare a master plan for the research park in 2014.

Discovery District consultant David Green from Architecture Inc./Perkins & Will presented information on the preferred space for the research park along with an explanation for why this would be an ideal location. The space presented is an alternative to the space originally proposed. He noted that the new location accommodates nearly 400,000 square feet of academic programming, but the space is flexible.

Regent Baloun explained that he wants to ensure that the Board of Regents will always have the ability to build academic buildings where it sees fit. He wants to solve the research agenda while protecting the academic function.

The consultant noted that the Board of Regents can currently build a single academic building anywhere it wants or it can build a multi-use building with academic functions. He noted that the Board of Regents has direct connection to the function of the research areas because it is intimately involved and intertwined in the work.

The consultant further explained that space he describes shows where research buildings can be built, not where academic buildings cannot be built. The vision is for the highest level of integration as possible and this could be ensured through the amended master lease. He noted that the draw to a research park is students. Academic programs draw students; therefore, it is in everyone's best interest for the university to be able to have academic buildings on the space. It was emphasized that the research park board is composed of two Board of Regents members, the executive director, and the executive dean of the university center, so the Board of Regents would be well aware of any and all actions of the board.

Nathan Lukkes said that they envision a lease be written to have the Board retain unilateral rights of the land in order to determine and identify the purposes for the property.

IT WAS MOVED by Regent Johnson, seconded by Regent Sutton to direct the Executive Director to pursue lease revisions with provisions included that achieve the objectives of ensuring that there are adequate opportunities for academic buildings within the research park boundaries and to confer with bond counsel, as necessary, to resolve any issues associated with previous bond issuances, and bring the matter back to the board for action in December. All members voted AYE. The MOTION CARRIED.

IT WAS MOVED by Regent Johnson, seconded by Regent Sutton to appoint Mike Rush to replace Jack Warner as a Director of USDRP, Inc. for the remainder of his existing term. All members voted AYE. The MOTION CARRIED.

A copy of the Discovery District (USD Research Park) can be found on pages 3583 to 3586 of the official minutes.

SDSU Research Park - WITHDRAWN

FY16 R&D Innovation Update

Mr. Lukkes presented the campus award winners of the FY16 R&D Innovation Grant Awards and explained that each proposal was evaluated and reviewed by members of the external evaluation panel representing members of the REACH committee.

A copy of the FY16 R&D Innovation Update can be found on pages 3587 to 3590 of the official minutes.

Proof of Concept Update

Regent Johnson provided a brief overview of the item.

A copy of the Proof of Concept Update can be found on page 3591 of the official minutes.

System Export Control Policy

Mr. Lukkes explained that the Export Controls Policy has been developed to enhance the System's export control compliance efforts. The policy provides a comprehensive framework to facilitate compliance across the various areas affected by export controls. An earlier version of the policy was provided to the Board as an informational item at its August meeting, allowing time for discussion, consideration and modification, before seeking Board approval.

IT WAS MOVED by Regent Johnson, seconded by Regent Schartz to approve the attached export controls policy for first reading. All members voted AYE. The MOTION CARRIED.

A copy of the System Export Control Policy can be found on pages **3592** to **3599** of the official minutes.

SDSU Program Title Change – Addendum to Articulation Agreement

Dr. Turman explained that SDSU has submitted an addendum for all of the articulation agreements currently in place for Electronics Technology seeking authorization to formally update the titles within each to Electronics Engineering Technology as a result of the program title change that was approved at the April 2015 Board meeting.

IT WAS MOVED by Regent Johnson, seconded by Regent Morgan to approve South Dakota State University's addendum for all of the articulation agreements currently in place for Electronics Technology to formally update the titles within each to Electronics Engineering Technology. All members voted AYE. The MOTION CARRIED.

A copy of the SDSU Program Title Change – Addendum to Articulation Agreement can be found on pages **3600** to **3601** of the official minutes.

Dual Credit – Reduced Tuition Program

Dr. Turman explained that the reduced tuition High School Dual Credit Program, which was funded through the state legislature during the 2014 legislative session, has now had students complete the first year of the program.

He presented performance data from the Summer 2015 semester which showed that 88% of HSDC students in the Regental System finished with a grade of C or higher, 8% of students finished with grades of D or F, and 4% of students withdrew from courses. The DFW rate was up 5% from Spring 2015, which is believed to be attributed to the more condensed nature of summer courses. Solutions for this problem, such as potentially limiting the number of credits a student can take per summer session, will be evaluated going forward for the Summer 2016 semester.

He explained that the enrollment process for the fall semester opened in April, and students were able to register until the first day of classes. Students were able to drop courses until the traditional add/drop date. Course enrollment and headcount have both gone up significantly since Spring 2015 semester, with enrollment growing by 33% and the program headcount increasing

by 25%. The number of credits students have enrolled in has also increased 32%, going from 4,827 credit hours in Spring 2015, to 6,390 credit hours in Fall 2015. As of the drop date, 1,510 individual students have enrolled in 2,173 courses within the Regental system.

Regent President Schaefer indicated that he would like to know if the dual enrollment program is increasing enrollment to our regental institutions. Dr. Turman said he would bring a report back to the Board for the December meeting to examine this.

Regent Baloun asked if students taking dual credits are achieving transferrable credits if they choose to attend postsecondary out of state. Dr. Turman responded affirmatively and indicated that dual credits are actually more widely transferrable than AP courses.

In response to a question from Regent Jewett, Dr. Turman explained the difference between concurrent courses versus dual credit courses. Regent Jewett felt it was extremely important to be clear about these differences being described. He would like to see a list of the current schools who agree to offer our courses concurrently.

A copy of the Dual Credit – Reduced Tuition Program can be found on pages **3602** to **3605** of the official minutes.

Program Review Reports - SDSM&T & SDSU

Dr. Turman explained that the system has established a process requiring periodic reviews of all programs offered. A primary purpose for these reviews is to continuously improve the quality of all educational programs. Periodic program review involves stakeholders in an analysis of past performance which is used to inform present and future directions and decision-making. The review process is integrated with strategic planning and budgeting, with regional and specialized accreditation processes, and with student-learning outcome assessment. The system's processes require each campus to maintain a schedule that indicates the time frame for the review of every program offered.

For each review, representatives of the program complete a self-study driven either by the system's guidelines or by those of an external accrediting body, if applicable. An external reviewer is engaged to evaluate the program using both the self-study and interviews of constituents. In each case the reviewer prepares a report of findings and the campus then prepares a response.

A copy of the Program Review Reports – SDSM&T & SDSU can be found on pages **3606** to **3618** of the official minutes.

Agreement on Academic Cooperation – USD

Dr. Turman explained that the University of South Dakota seeks approval to enter into a cooperative agreement with Yangtze University, Jingzhou and Wuhan, China, to assist in facilitating international student educational opportunities. The agreement results in a one way sharing of students between institutions. Inbound exchange students from the partner institution will pay the Regental campus all applicable non-resident tuition, special discipline fees, salary enhancement fees, incidental fees, the International Student Fee, and appropriate room and board

fees. All living expenses shall be borne by the students of the partner institution. In general, all other incidental costs are the responsibility of the participating students.

IT WAS MOVED by Regent Johnson, seconded by Regent Sutton to approve the agreement on academic cooperation between the University of South Dakota and Yangtze University. All members voted AYE. The MOTION CARRIED.

A copy of Agreement on Academic Cooperation – USD can be found on pages **3619** to **3624** of the official minutes.

New Program – SDSU – MS in Industrial-Organization Psychology

Dr. Jay Perry explained that SDSU requests authorization for a Master of Science in Industrial/Organizational Psychology. The program is a unique sub-discipline of psychology that applies research to improve the well-being and performance of people and their organizations, including the areas of workforce planning, employee selection, leader development, job motivation, and facilitating organizational change.

IT WAS MOVED by Regent Johnson, seconded by Regent Baloun to approve SDSU's proposal for an MS in Industrial/Organizational Psychology program as described in Attachment I. All members voted AYE. The MOTION CARRIED.

A copy of the New Program – SDSU – MS in Industrial-Organization Psychology can be found on pages **3625** to **3653** of the official minutes.

University Center-Sioux Falls Task Force Report Update

Dr. Jay Perry explained that at the August Board meeting, the Board authorized a committee to study and make recommendations on a new governance structure at the University Center-Sioux Falls (UC-SF). Since that time, the committee met in Sioux Falls on September 11, 2015. Attendees at the meeting included three regents (a fourth attended by phone), the Executive Director of the Board of Regents, the Executive Director of University Center-Sioux Fall, the presidents of DSU, USD, and SDSU as well as and two members of Board office staff.

At that meeting, the regents directed the three presidents, the UC-SF Executive Director, and the Board of Regents Executive Director to continue the discussion and integrate feedback from Sioux Falls community leaders (e.g., government officials, Sioux Falls Chamber of Commerce, Sioux Falls Development Foundation). A formal proposal to the Board of Regents regarding the UC-SF governance structure should incorporate relevant information from the Sioux Falls community discussion.

In response to a question, Dr. Perry indicated that the educational offerings would likely lean on the Sioux Falls community's belief of what the local market requires. The current request of the community is to have a full gamut of options, including undergraduate, associates, and graduate degrees.

Regent Baloun provided a brief report on the committee's recent meeting with Sioux Falls community leaders on October 6, 2015. In conversation about the opportunities and current gaps in

offerings, the Sioux Falls community presented thoughts and recommendations. In this conversation, it was apparent that the Sioux Falls community is very interested in supporting and partnering with any upcoming changes. Regent Baloun said that this committee will now hear back from the presidents and Dr. Rush to find a recommendation.

In response to Regent Johnson's question about when to anticipate a recommendation, it was mentioned that the UC would need enough lead time to incorporate changes for the next academic year. Therefore, the recommendation should be available at the latest by April. They recognized that the December meeting might be too quick for a thoughtful recommendation, but the April meeting would be the very latest. Perhaps a special Board meeting will need to be called in order to accomplish this task.

Regent Jewett thought that there may be changes for Sioux Falls by legislative session and noted that the upcoming constitutional amendment complicates the matter.

A copy of the University Center-Sioux Falls Task Force Report Update can be found on pages 3654 to 3655 of the official minutes.

Jolene's Law Task Force and USD Budget Request for the Center for the Prevention of Child Maltreatment

Regent Johnson provided a brief overview of the item.

A copy of the Jolene's Law Task Force and USD Budget Request for the Center for the Prevention of Child Maltreatment can be found on pages 3656 to 3657 of the official minutes.

Title IX: Online Training and System-Wide Readiness Assessment

Ms. Barbara Basel provided an overview of the work done by the Board of Regents over the last three years to address the concerns of Title IX in regard to sexual violence.

A copy of the Title IX: Online Training and System-Wide Readiness Assessment can be found on pages 3658 to 3661 of the official minutes.

BOR Policy 3:4 – Student Conduct Code

Dr. Rush provided a brief overview of the intention of these revisions. He said there are a number of principles that are expressed in this policy and he asked the Board to give additional guidance to these directions.

Regent President Schaefer invited each regent to ask questions of Dr. Shekleton.

Regent Jewett suggested that a two tier discipline system be created. The first part could be for minor issues that implement a peer court. The other would be for potential felonies where expulsion is a possibility. Regent Jewett said that some of forms of misconduct may also expose students to felony charges. In such instances, he believed that a more formal disciplinary procedure would be warranted. He would like to refer this policy to the presidents, student

affairs, and the student associations. He said it is materially complicated to have the minor issues folded into the major issues.

Dr. Shekleton provided a brief description of the due process rights that need to be provided to an accused student. The level of due process required is determined by the type of offense. Overall, this includes a notice of what the student is being accused of, what evidence is going to be provided to make the case, who is going to provide testimony, a reasonable opportunity to prepare a defense and a meaningful opportunity to present the defense at a meaningful time. Major changes under the draft policy, include (1) if there is a document that the university intends to use, it will be shared with the accused, (2) increases the time to prepare for the hearing, (3) if there is new evidence, the person must be notified and the time to prepare for the hearing be increased, and (4) in charges involving sexual violence, racial violence or hate violence, this policy update provides the opportunity for a respondent to bring an attorney to the hearing who can cross examine witnesses.

Dr. Shekleton emphasized that the draft policy was written to allow active participation by attorneys for cases involving sexual violence, racial violence or hate violence.

Regent Jewett reiterated the benefit of having a two track discipline system. He said he feels that the policy is written too narrowly and that more situations warrant the opportunity to have a lawyer. Dr. Rush asked Regent Jewett to provide a list of violations where he feels that lawyers should have the ability to cross examine.

Regent Baloun suggests that we refer this back to Student Affairs Council, the presidents' council, and the student federation. The policy should be written for all conduct outside of the serious issues such as sexual violence. He said that there should be another track that is used for the serious issues.

Dr. Shekleton said that state law provides students with a right to appeal from institutional decisions to the Board of Regents. Once it gets to the Board of Regents on appeal, the statute requires that the Board review the matter as a contested case. Contested case proceedings operate much more like a court trial than an internal university disciplinary proceeding. He noted that contested case proceedings allow individuals to represent themselves, but that, if they prefer to have someone else represent them, the person must be a licensed South Dakota attorney. Thus, both the draft policy and existing law afford little advantage for students who cannot afford lawyers. Dr. Shekleton explained that many of the features that may appear to be unduly formal actually provide guidance based upon a growing series of recent cases overturning university disciplinary actions that failed to provide accused students with adequate due process.

BHSU President Jackson contributed to the discussion by explaining his perspective of the revised policy. He noted that he speaks for the presidents. He asserted that the code as proposed is overly legal, difficult to understand, too wordy, and not accessible. He said that there are three fundamental elements to student conduct: (1) fairness, (2) consistency, and (3) the need to follow the process. He noted that the conduct process is meant to be an educational process. He emphasized that this is not a legal process, although it may have legal implications. The process should protect both the accused and the accuser. He emphasized the belief that there should not be lawyers actively involved in the process. He provided his belief that the appeals process

should not be referred to the Board of Regents, rather it should be referred to the chief executive officers. Additionally, he said that students should be involved in the hearing process. He provided additional information that urged the board to reconsider the policy development process which should utilize legal counsel, the Student Affairs Council, and the Presidents' Council and to re-address in early 2016.

Regent Jewett said due process is an evolving term. He agrees with President Jackson in referring this back to the Student Affairs Council and the President Council. He said the first step is to remove the smaller conduct issues. He also said the appeals are narrowly defined procedural matters. He believes that the courts are providing guidance on this matter that cannot be ignored.

Regent Scharz asked that the Student Federation be involved in this process.

Both Regents Johnson and Bastian expressed concern that the revisions to this policy turn the process into a criminal proceeding when in fact it is not meant to do that. Guilt or innocence is a matter for the courts. This is about whether or not a student behaves in an appropriate manner. If he or she most likely did not, they do not get to participate. Regent Bastian said there are different interests in a lot of different proceedings and these can happen at the same time. Students, however, do need to understand that elements of the conduct proceedings can be used in the criminal process. The student disciplinary process should be differentiated from the criminal process.

Regent Morgan said it would be helpful if examples were included to better help educate the Board about how this would actually work.

Dr. Shekleton cautioned against reliance on the fact that for many generations informal discipline has been upheld by the courts. He noted that the most recent decisions showed that this area of higher education law and practice has arrived at the cusp of change and that the opinions of experts who have not considered the developing lines of authority must be approached carefully. What has worked in the past is not likely to work in the future.

IT WAS MOVED by Regent Sutton that this policy revision be deferred to December with additional review by the Student Affairs Council and the Presidents' Council, seconded by Regent Jewett. All voting AYE. THE MOTION CARRIED.

A copy of the BOR Policy 3:4 – Student Conduct Code can be found on pages 3662 to 3696 of the official minutes.

International Activities Annual Report

Regent Johnson provided a brief description of the International Activities Annual Report.

A copy of the International Activities Annual Report can be found on pages 3697 to 3758 of the official minutes.

THURSDAY, OCTOBER 8, 2015

Regents' President Randy Schaefer called the meeting of the Board of Regents to order at 9:15 a.m. on October 8, 2015, and declared a quorum present.

BUDGET AND FINANCE

Building Committee Report

The Committee received information regarding the activities of the various building committees since its last meeting. A copy of the Building Committee Report can be found on pages **3759** of the official minutes.

Capital Project List

The Committee received the Capital Improvement Project List identifying the current capital improvement projects along with the Regental representative, estimated dollar amount, the source of funds for the project, and the current status of the project. A copy of the Capital Project List can be found on pages **3760** to **3764** of the official minutes.

Fair Labor Standards Act Proposed Regulations

Ms. Basel explained that the U.S. Department of Labor (DOL) has proposed revisions to the Fair Labor Standards Act, the law that establishes minimum wage, overtime pay, and regulates the employment of minors. She said these revisions will likely be implemented in February 2016. She said that the major change to the rule is that the current threshold of \$455 per week is likely to be increased to \$970 per week.

She explained that the threshold refers to the salary level that determines an exempt versus nonexempt employment status. Nonexempt are hourly employees, and exempt employees (often executive, administrative and professional employees) are salaried.

She described how this may affect campuses by saying that coaches (currently classified as exempt) may not reach the \$970 per week. However, they are doing further analysis by looking at the aggregate earnings. She said the system runs the risk of having less control of expenses and budgetary impact.

In response to a question by Regent Sutton, Ms. Basel explained that the system is currently analyzing how many employees this will effect. She explained that the challenge of this projection is that current exempt employees do not track hours. Regent Sutton explained that this change has the biggest impact on the group that currently gets paid between \$23-50K as well as those who fall into the classification of highly compensated. Ms. Basel explained that the HR professionals are currently discussing strategy on reviewing all of the positions.

Additionally, Ms. Basel explained that the HR professionals within the board office, regental institutions, and the South Dakota Bureau of Human Resources have been monitoring the news, webinars and professional organizations regarding the proposed rules. She explained that they will continue to work to understand the impact.

A copy of the Fair Labor Standards Act Proposed Regulations can be found on pages 3765 to 3767 of the official minutes.

SDRS Supplemental Retirement Plan Auto-Escalation Feature

Ms. Basel explained that in 2009 the South Dakota Board of Regent selected to be an auto-enrollment employer in the SDRS Supplemental Plan (SDRS SRP). Since July 2009, all newly hired benefit-eligible employees have been auto-enrolled into SDRS SRP with a \$25.00 per month deduction. She said the participation in this plan has been significant.

Because SDRS SRP has now implemented an auto-escalation feature, employers can elect to participate and automatically increase contributions to SDRS SRP auto-enrollees once annually. Each auto-enrolled employee would see a \$10.00 per month increase to their SDRS SRP contribution, once annually, in the July payroll. Employees would be given the opportunity to opt-out of the auto-escalation feature on an annual basis, or can choose a different amount to automatically increase their contribution.

The regents agreed that this is a good thing for the regental employees. Dr. Rush touched upon the research this recommendation was based on and noted that before the automatic enrollment was implemented only 1% of employees joined the supplemental plan program. After the auto-enrollment was put into place, there was 93% participation. This is not an insignificant change.

IT WAS MOVED by Regent Baloun, seconded by Regent Bastian to adopt the SDRS Supplemental Retirement Plan auto-escalation feature for the Board of Regents' system. All members voted AYE. The MOTION CARRIED.

A copy of the SDRS Supplemental Retirement Plan Auto-Escalation Feature can be found on pages 3768 to 3770 of the official minutes.

Housing and Auxiliary Facilities System Audit FY15

Ms. Shelly Anderson explained that an independent audit of the Housing and Auxiliary Facilities System is required by bond counsel. In order to accomplish this, the BOR has retained the Department of Legislative Audit (DLA) to provide an Agreed Upon Procedures audit of the system. The BOR compliance officer and internal auditor receive the financial statements from the universities and combine and audit the statements and prepare the footnotes. They provide the financial statements and working papers to DLA to perform certain tests that are outlined in the Agreed Upon Procedures document. These procedures were developed based on the requirements noted in the bond documents.

She explained that for the FY15 Audit of the Housing and Auxiliary Facilities System, DLA found no exceptions or instances of noncompliance to the Agreed Upon Procedures audit. In addition, the report was issued four months earlier than the past audit. She thanked the universities for providing the financial statements in order to make that happen.

In response to a question, Dr. Kramer said he continues to monitor the debt coverage ratios. He said the system is currently very strong. Additionally, he explained that we are about to go back

to the market to refinance for SDSU and USD as well as add DSU for the financing of its hospital renovation. He suspects that we will have some additional issues to talk about with our agencies. However, none are detrimental to our system. He explained that the concern is always the overall amount of debt that the system is carrying. He said things are going very well for the housing and student union system.

A copy of the Housing and Auxiliary Facilities System Audit FY15 can be found on pages **3771** to **3781** of the official minutes.

DSU Purchase – Madison Community Hospital

Dr. Shekleton explained that we need title to the property before we are in position to issue bonds and that state law requires title before state funds may be expended on the construction. The desire to issue bonds prior to the December Board meeting led to an effort to finalize the sales contract for Board review in October; but, one technical drafting issue needed to be resolved before the document was in final form. He explained that authorization should be afforded to the executive director to sign this agreement once the environmental audit has been completed. Preliminary information from the environmental company suggests there will be no findings. He said by early December the Board should have a fee simple absolute title to the property and will be positioned to issue bonds.

Dr. Kramer noted that the recommended action of the executive director includes language that says the environmental audit shall not require remedial measures with costs exceeding 10% of the purchase price. However, he noted that we do need to hold title by early December in order to go to the bond market. Therefore, he asks that the board consider language that would not limit its ability to move forward.

IT WAS MOVED by Regent Baloun, seconded by Regent Morgan to grant the executive director the authority to execute the purchase agreement addition in substantially the same form as set forth in Attachment III, contingent upon receipt of an acceptable environmental audit, which shall not require remedial measures with costs exceeding a reasonable amount of the purchase price, and must also include a commercially reasonable plan from DSU to cover any required remedial work. All members voted AYE. The MOTION CARRIED.

A copy of the DSU Purchase – Madison Community Hospital can be found on pages **3782** to **3797** of the official minutes.

BOR Policy 5:21 – System Collection Policy

Dr. Kramer explained that for some time universities have been looking at increasing the minimum level of student debt that gets turned over to collection agencies. Currently accounts over \$100 are supposed to be turned over to a collection agency after in-house collection efforts are exhausted. The considered changes will allow accounts that are less than \$500 to be referred to contracted collection agencies or the ORC.

He explained a parallel issue by referring to HB1228 which created an Obligation Recovery Center (ORC) to be a central repository for identification, registration, oversight, and collection of debts owed to any state agency or department. The Bureau of Administration has budgeting

and oversight of the center. The law has permissive language that the Board of Regents may use the center to collect any final debt owed within the system. However, the Bureau of Administration is expecting the Board of Regents to utilize this center for student collections. Bureau of Finance Management (BFM) has indicated that no debt will be written off until it has been referred to the center.

Additionally he explained that some of the universities have special contracts for the collection of federal student loans. Whether or not we would want to refer these to ORC would depend on the ability and sophistication of the ORC and their contracted collection agencies. The federal debt may require us to utilize vendors who specialize in student loan collection and can meet all the federal consolidation and reporting requirements.

The ORC will have the ability to deny/revoke driver's licenses and other state permits and licenses for people who owe the state debt. The universities are more comfortable with that type of action for accounts of \$500 or more.

Regent Johnson acknowledged that BFM will not allow us to write off any debt without going through the recovery center. However, she asked for clarification about the amounts under \$500. Dr. Kramer said that this is yet to be seen but would hope that BFM would understand that the system has made a good faith effort to use the recovery center. He said this change has been underway long before the notion of the recovery center.

She asked for additional clarification about the range of most debts. Dr. Kramer said it is mostly between \$400-600. He also noted that students who have a balance of \$50 on their account will have a hold placed on the account until the balance is paid. Because of this, the change mainly affects students who walk away completely.

Regent Bastian commented on the punitive nature of HB1228, which takes the individual's driver's license away the minute that the individual is notified of their debt. They can get the license back on appeal, but there is no provision in place for a work exception. He is not a fan of this type of penalty.

IT WAS MOVED by Regent Schartz, seconded by Regent Baloun to approve the first reading of the changes to BOR policy 5:21 – System Collection Policy. All members voted AYE. The MOTION CARRIED.

A copy of the BOR Policy 5:21 – System Collection Policy can be found on pages **3798** to **3801** of the official minutes.

Graduate Assistants Proposal

Dr. Kramer explained that the proposal before the regents is one that would set graduate assistant tuition to zero. It would also waive their university support fees and program fees. However, graduate assistants would continue to pay the general activity fee. Under this proposal, the tuition and fee revenue loss for research graduate assistants that are funded with federal grants would be made up with increased tuition remission revenue (amount of tuition and other support waived in lieu of wages paid to students performing necessary work). The stipends paid to graduate teaching and administrative assistants would be reduced to offset the revenue loss.

He explained that if these revisions would be implemented other related policies would need to be revised as well. Those policies are not yet fully vetted with the councils but would be brought forward for approval. Another issue that would need to be dealt with is the portion of tuition that is directed centrally. He explained that if this proposal passed, these portions would be billed to the institutions so would be an issue that the campuses would need to deal with.

He explained that for the research institutions this makes a lot of sense, especially since we would be able to have federal grants pay the tuition back. The three institutions that would like to go forward with this proposal are SDSU, USD and SDSM&T.

Regent President Schaefer noted that the investigation and discussion of this concept was put together well and seems to have had thorough vetting.

Regent Jewett explained that he felt that this proposal is premature considering the work that regents are doing to better understand the grant procedures at the research institutions. He is concerned that if an institution loses a grant that the research assistant is paid under, the university would not have a way to pay the student.

Regent Baloun explained that a subcommittee of regents has visited SDSU, USD and plans to visit SDSM&T to better understand grant procedures. Their campus visits have included meeting with research and finance people. In addition, he said that the management of these graduate assistants and the research piece is integral to the overall campus and staffing dollars. The universities are managing this process very well. He clarified that the subcommittee looked at assistantship contracts and explained that the way these contract are written allows the institution to cancel the research assistantship if it loses the grant.

Dr. Kramer explained that the examples he provided were meant to communicate that the revenue would be net neutral. If a research assistant was not paid by a federal grant, the stipend would be reduced to ensure that this is revenue neutral.

Regent Johnson said the real benefit to this change is the increased amount that could get billed to these federal grants. The roughly \$2.8 million dollars that are currently coming out of the students' pockets would now come out of the federal grants.

SDSU brought this to the table because we need to be more competitive than what the current structure allows. Dr. Rush explained that South Dakota's growth in research demands this and the change now shows the maturity of the system in this area.

IT WAS MOVED by Regent Baloun, seconded by Regent Johnson to approve the first reading of the changes to BOR policy 5:22 – Graduate Assistants and Fellows for SDSU, USD and SDSM&T. All members voted AYE. The MOTION CARRIED.

A copy of the Graduate Assistants Proposal can be found on pages 3802 to 3810 of the official minutes.

BOR Policy 6:6 Maintenance and Repair

Dr. Kramer explained that the current BOR policy limits the campuses' local maintenance and repair authority to projects that are less than \$25,000. This amount has been in place for at least two decades. At the June physical plant director's meeting in Pierre, there was a good discussion on increasing the dollar amount of maintenance and repair projects that can be handled on campus. BAC discussed this further at its September meeting and would like to expand the authority to the campuses so they can complete projects up to \$100,000. Currently all projects over \$25,000 are handled by the Office of the State Engineer (OSE) unless they are delegated to the campus. On projects that are less than \$25,000 that require an A/E firm, OSE must be consulted on the A/E selection.

He said the universities can still request OSE delegation of a project to the campus. SDSU has a staff of architects, engineers and trades staff that allows them to do a significant-sized project and OSE had recognized that and has been willing to assign many projects to SDSU.

He indicated that the suggested changes to BOR policy 6:6 include allowing local handling of projects less than \$100,000. In addition, other changes reflect clarifications or the elimination of unnecessary language.

He noted that conversations about this change and debate over our authority with the Bureau of Administration (BOA) and the OSE are ongoing. Since this is the first reading of changes to BOR policy 6:6, he explained that the Board's input will be valuable as we continue to push these changes with BOA and OSE and the interpretation of purchasing and OSE oversight statutes.

Dr. Shekleton reviewed the statutory authority afforded OSE. Technically, their authority is limited to capital projects involving a building committee on projects of \$1,500,000 or more. BOA is contesting increasing the campus authority arguing that the procurement laws require any public improvement procurement of \$50,000 or more go through BOA. The institutions intend to follow state procurement regulations and bidding requirements which BOR believes is what is required. We will continue the dialogue with BOA to see if we can come to a mutual understanding of how this would work moving forward.

Regent Baloun commented that this should probably have been done previously, and it seems like it is time.

Regent Johnson remembers that this has been taken up a few times over the last 10 years and the regents have always decided to discontinue pursuing this because of the opposition encountered by the state. She wants to understand why the dialog might change now. In response, Dr. Kramer said we are working directly with OSE on the M&R change. Also, we have a very good working relationship with the state engineer and OSE. There is a backlog of projects and we would be able to take care of these projects faster. He noted that the environment is right.

IT WAS MOVED by Regent Baloun, seconded by Regent Schartz to approve the changes to BOR Policy 6:6 for first reading as printed in the attachment. All members voted AYE. The MOTION CARRIED.

A copy of the BOR Policy 6:6 Maintenance and Repair can be found on pages 3811 to 3826 of the official minutes.

HEFF Cash Flow Statement

Dr. Kramer discussed the cash flow statement for the Higher Education Faculties Fund (HEFF). He noted the assumptions made to present actual and planned revenues and expenditures for FY12 through FY30. These assumptions have been used for the last 15 years but market conditions continue to change and 5% annual tuition increases are probably not sustainable. Therefore, he provided different scenarios that show different assumptions on tuition increases. He said we are no longer competitive with surrounding states if we continue the trend that we have been traveling. With a three percent increase we would be much better situated. The assumptions will be changed in the cash flow statement.

This moves our next bonding out a couple of years. With a three percent increase, bonding changes to fiscal year 2021.

Regent Baloun asked that we revisit that assumption each year to ensure that we are able to stay current with the market conditions.

Regents Jewett said this allows an opportunity for additional state support for the universities. He said he would be interested to see how a market share loss would play out with the HEFF fund.

Dr. Kramer said when using the assumption of zero percent, the numbers are dismal especially if you factor in a possible enrollment loss.

Regent Sutton noted the power of the illustration provided in the attachment. He suggests that this should be the opening statement to the appropriations committee this coming legislative session. Regent Jewett further suggested that this be a conversation point with Jason Dilges from BFM.

In response to a question by Regent Morgan, Dr. Kramer explained how carryover monies are dealt with.

A copy of the HEFF Cash Flow Statement can be found on pages 3827 to 3833 of the official minutes.

DSU Student Union Facility Program Plan

Marcus Garstecki, Vice President of Student Affairs at DSU, and Stacy Krusemark, Vice President of Finance at DSU, presented the DSU Facility Program Plan to renovate the Trojan Center Student Union at an estimated cost of \$7,500,000. They explained that funding for this project will come from \$5,000,000 in bond proceeds funded by the 2015 and 2016 GAF increases (\$5.75 per year) along with a \$2,500,000 capital investment from the DSU Food Service vendor.

Mr. Krusemark provided information about the bonding issues that are involved in this project. He explained that this project planning started in 2012. The planning and design started before

the hospital was purchased. Regent Jewett asked for and received confirmation that the dollars estimated for the project are current, not two years old.

IT WAS MOVED by Regent Baloun, seconded by Regent Schartz to adopt DSU's Facility Program Plan to renovate the Trojan Center Student Union at a cost not to exceed \$7,500,000. Funding for this project will come from \$5,000,000 in bond proceeds funded by the 2015 and 2016 GAF increases (\$5.75 per year) along with a \$2,500,000 capital investment from the DSU Food Service vendor. All members voted AYE. The MOTION CARRIED.

A copy of the DSU Student Union Facility Program Plan can be found on pages 3834 to 3842 of the official minutes.

SDSU Bond & Utility Fee on Meal Plans

Doug Wermedal explained that the proposal updates policy to reflect current practices. This item attempts to reconcile who pays for food service improvements. The current facility fee is assessed to those who have a meal plan; however, all students use the food market. Therefore it would be fairer to assess each student. He provided information on the rate increase to the General Activity Fee. He also explained that this proposal has been vetted by student leadership.

Because this involves a mid-year change to mandatory fees at SDSU, the Board will be asked to vote on the proposal at the December meeting.

The proposed change would be revenue neutral – the facility fee on the meal plans would be removed and the General Activity Fee would be increased to recover the revenue currently received from the facility fee. Similar to the past practice of increasing the facility fee when costs rise, this component of the General Activity Fee would be adjusted annually according to BOR salary and operating expense policy.

This change would be effective with FY16 spring. This would take it out of the tuition and fee approval cycle and it would be ahead of the potential tuition freeze for FY17.

Regent Sutton asked if the assessment would only affect students, not visitors. It was explained that the figures only represent card swipes not cash sales.

Regent Schartz asked if there was a way to assess all consumers of the market. Mr. Wermedal said that was the first avenue they explored, but because they do not have taxing authority they could not assess an additional cost for every item.

In response to a question, Dr. Wermedal explained that the other campuses have interest in this effort and may pursue it at their institutions at some point in the future.

SDSU's GAF would increase to \$39.80, which would make them the third highest campus in GAF fees.

Dr. Kramer noted that BAC has discussed this on two different occasions and only SDSU has shown a strong interest in making this change. While the other schools agree that this may be a

better way to recover costs to pay for improvements used by more and more students, they do not want to increase the GAF on all students at this time.

Regent Baloun said that the business world has done a better job of instigating best practices. He said it would behoove the system to consider more pilot projects.

Dr. Kramer said this is not a policy change but he thought it was substantial because the Board is being asked to change the fee structure mid-year. He wanted the Board to be aware of this proposal which will appear for approval in December.

A copy of the SDSU Bond & Utility Fee on Meal Plans can be found on pages 3843 to 3846 of the official minutes.

USD New Facility Management Building Preliminary Facility Statement

Roberta Ambur explained that USD requests approval of its Preliminary Facility Statement to plan for the construction of a new Facilities Management Facility. This building would consolidate the three existing areas plus the additional off-site property. This facility would provide appropriate quality of space to support the university operations and also provide a safe work environment for employees. The space would also provide improved collaboration among all facilities management personnel.

She said plan funding will include South Dakota's Higher Education Facilities Funds (HEFF). The \$7.5M designated for Dakota Hall on the 2012 HEFF Ten-Year Plan would be redirected to this project. Funding details will be determined through the initial study process. Development of the Facility Program Plan for this building is \$50,000.

IT WAS MOVED by Regent Baloun, seconded by Regent Sutton to adopt USD's Preliminary Facility Statement to plan for construction of a new Facilities Management Building. This will allow USD to develop its Facility Program Plan and outline more specific plan details, cost estimates and funding sources. If approved, the Board President should appoint a Building Committee representative to oversee the planning of this project. All members voted AYE. The MOTION CARRIED.

A copy of the USD New Facility Management Building Preliminary Facility Statement can be found on pages 3847 to 3849 of the official minutes.

ADJOURN

The Board adjourned at noon.

The South Dakota Board of Regents adjourned its regular business meeting on October 7-8, 2015 and will meet again in regular session on December 1-3, 2015 in Spearfish, South Dakota.

I, Mike Rush, Executive Director and CEO of the South Dakota Board of Regents, declare that the above is a true, complete and correct copy of the minutes of the Board of Regents meetings held on October 7-8, 2015.

A handwritten signature in black ink that reads "Mike Rush". The signature is written in a cursive, flowing style.

Mike Rush
Executive Director and CEO