

**BOARD OF REGENTS
MINUTES OF THE MEETING
August 10-12, 2015**

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**BOARD OF REGENTS
MINUTES OF THE MEETING
August 10-12, 2015**

The South Dakota Board of Regents met on August 10-12, 2015 at the River Rock Lodge (20940 296th Ave) in Pierre, South Dakota, with the following members present:

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

Also present during all or part of the meetings were Mike Rush, Executive Director and CEO; James Shekleton, General Counsel; Paul Turman, System Vice President for Academic Affairs; Molly Weisgram, System Director of Students Affairs and Assistant to the CEO/Board; Janelle Toman, Director of Communications; Nathan Lukkes, Assistant System Vice President for Research and Economic Development; Michele Anderson, Internal Auditor; Daniel Palmer, Director of Institutional Research; Barbara Basel, Director of Human Resources; Monte Kramer, System Vice President of Finance and Administration; Jay Perry, Director of Academic Programs; Leah Ahartz, System Budget Director; Molly Hall-Martin, Director of Student Preparation and Success; James Abbott, USD; David Chicoine, SDSU; José-Marie Griffiths, DSU; Tom Jackson Jr., BHSU; Heather Wilson, SDSM&T; James Smith, NSU; Marjorie Kaiser, SDSBVI and SDSD; Bob Mercer, Aberdeen American News.

MONDAY, AUGUST 10, 2015

The Board of Regents convened in open session at 7:15 p.m. on Monday, August 10, at the River Rock Lodge. Calling the meeting to order, Regents' President Randy Schaefer declared a quorum present.

IT WAS MOVED by Regent Baloun, seconded by Regent Schieffer that the Board of Regents convene and dissolve into Executive Session at 7:15 p.m. on Monday, August 10, 2015, in order to discuss personnel matters; that it adjourn at 9:00 p.m. and reconvene in executive session at 7:30 a.m. on Tuesday, August 11, in order to discuss personnel matters, pending and prospective litigation, contractual matters, and to consult with legal counsel; that it arise from executive session at 9:00 a.m. to begin discussions related to its annual retreat; that it reconvene at 12:00 p.m. to discuss contractual matters; that it rise from executive session at 1:00 p.m. to take up the regular order of business and report deliberations in all executive sessions. All members voted AYE. The MOTION CARRIED.

TUESDAY, AUGUST 11, 2015

Regents' President Randy Schaefer called the meeting of the Board of Regents to order at 9:00 a.m. on August 11, 2015 and declared a quorum present.

PARLIAMENTARY PROCEDURE WORKSHOP

Dr. Mike Rush, Board of Regents' Executive Director, provided a workshop overviewing the body of rules, ethics, and customs governing meetings and other operations of clubs, organizations, legislative bodies, and assorted deliberative assemblies. A copy of the Parliamentary Procedure Workshop can be found on pages 2573 of the official minutes.

PROMOTING HIGHER EDUCATION IN SOUTH DAKOTA THROUGH GOAL SETTING

Dr. Daniel Palmer, BOR Director of Institutional Research, provided information on the increasing demand for employees with a postsecondary degree in the United States. He noted that the nation's rapid transition toward a knowledge-based, service-based economy will continue to call for an increasingly skilled workforce. In fact, he said by year 2020 roughly 65 percent of jobs in South Dakota are expected to require some level of postsecondary education.

He pointed out that these dynamics call for efforts to set and meet a statewide educational attainment goal, which was not included in the recently approved strategic plan. Dr. Palmer highlighted several key data points that sought to inform the process of setting a statewide attainment goal. He noted that the current educational attainment is roughly 38% in South Dakota. Considering that South Dakota has only increased its education attainment by 15% in 25 years, increasing the attainment to 65% by 2020 may be challenging.

Dr. Rush explained that there is plenty of guidance on this topic, for instance the Lumina Foundation does a state by state publication and Complete College America has data. He noted two important reasons for increasing educational attainment. One reason is that we owe it to our citizens so they can be better equipped for the ebbs and flows of the workforce demands. He said

the second is that the economic development of the future is more tied to education than it ever has been. He noted that the available educational capital is a major factor in the economic growth and success of a region.

Regent Johnson said that if the regents were to set a statewide educational attainment goal, they would need to work with those with common interests so there are allies in the effort, i.e. economic development, department of labor, etc. She said the argument would be that we would accelerate the incline of many of the goals if we were producing more graduates.

President Chicoine noted that we need to consider numbers over percentages. We need to consider the population increase/decline and how that affects economic growth and development as well. He affirmed that the state needs to make a sea change, and this requires partnerships within the state.

Regent Jewett stated that the word “education” in the state of South Dakota only refers to K-12. He said we need to make an effort to get the legislature, executive branch, and common citizen to understand the value of higher education. He would like to see a sea change in the culture and interpretation of the word “education.”

Regent Schartz noted that higher education’s role in importing working citizen from other states is a critical component to the health of the economy.

Regent Johnson asked if there was interest by the regents in setting a state-wide attainment goal. She said on the face of it, there would be no reason not to set the goal, especially since many of the state’s citizens believe we export many of the graduates. She said if we move forward, we are really going to have to make the case. There was some consensus that this should be put together, packaged, and marketed in a big way.

Dr. Rush said that the advantage to setting a state-wide goal is that it includes all postsecondary education, including associates degrees, technical education, and research communities. The goal allows us to have the conversation in all communities, tailoring the message as appropriate to those groups. It also gives the Governor an opportunity to taut education, without excluding a particular segment of postsecondary. Furthermore, the message should promote the necessary preparation for secondary students in order to be successful in higher education. He also referred to an idea mentioned by Dr. Palmer as mentioned earlier in his presentation that we focus our efforts on people age 25-44.

President Wilson explained her belief that the state’s focus should be on parents and individuals under 25 to convince them that primary and secondary students need to graduate high school and go on to technical schools, college, or the military. She emphasized that we need to focus on a goal that is achievable. For instance, we could focus on eighth grade students. Perhaps set a goal that 75% of eighth graders move on to higher education. She said that using stories of how life has changed throughout the generations is very powerful.

Dr. Rush discussed the Idaho Business for Education group and explained its goal of education advocacy. He explained that in Idaho CEO’s around the state hired an executive director to host meetings, lobby, etc. He said it seems that this kind of group in South Dakota might be helpful in promoting higher education in the state and changing the culture.

Regent Schieffer said that the statewide goal and the business group for education are tied. Our goal setting would provide them an agenda.

There was some consensus that there might be interest and momentum in creating this group. Discussion about whether the Chambers of Commerce, Governor, or other individuals with statewide interests would be promoters or initiators of the group.

Dr. Rush said that this effort could be started by soliciting names, suggestions, and nominations of individuals to lead the effort.

A copy of the Promoting Higher Education in South Dakota through Goal setting can be found on pages 2574 to 2578 of the official minutes.

FUTURE UNIVERSITY CENTER MODELS

Dr. Paul Turman introduced the item on University Centers. He said as the conversation unfolds the Board staff will seek to provide factual data regarding the University Centers and possible action items.

Dr. Palmer provided information that demonstrated the marked decline in student enrollments at the state's university centers.

Regent Baloun asked the University Center directors to address the biggest factors contributing to their decline in enrollments. The University Center directors explained that online course availability was the biggest factor in enrollment loss. University Center – Sioux Falls director Craig Johnson also credited the job market, the generic identity, and perception that nonregental students accept more transfer credits than the state schools. He noted that of all students who come to the UC for consultation and student services, only 30% take UC credits. The rest take courses from other regental universities (typically online).

Dr. Palmer also provided data on students who do not enroll in postsecondary at all, explaining that 33% of high school graduates did not attend any type of postsecondary education. Of these, 11.9% received high ACT scores and 54.1% are classified as low-income. He pointed out the high levels of low-income students who are not enrolling. Additionally, he noted that over 46,352 young adults (age 25-44) in South Dakota have some college but no degree.

Regents' President Schaefer asked for the total number of 18 ACT+ who are not going to postsecondary education. He also asked for the corresponding geographical information. Regent Johnson provided information from the Fact Book that provided a snapshot of this information.

Dr. Palmer indicated that perhaps we should consider crafting tailored training programs that target older populations since people 65+ are remaining in the labor force longer than they were 15 years ago. Regent Sutton said the workforce dynamics are not surprising since people are expected to work longer for social security benefits. Dr. Palmer said that the important point is that when individuals are 45 or 50, they might consider themselves at mid-career versus late career.

Dr. Jay Perry, System Director of Academic Programs, provided information to facilitate discussion among the Board in regards to a direction for moving the system forward this coming academic year by addressing existing barriers to renewed growth of these important markets. The information presented included alternatives to four-year programs, market-based analysis of programming needs, and alternative pricing systems provided additional context.

Regent Johnson asked what it would take to create a lower cost entry point in our system. The group discussed the UC Foundations program and the flaws in its rollout.

To the question, if we aren't letting you do something that you think would help, BHSU-RC Director Gene Bilodeau said that other schools providing associates degree are open enrollment. He suggested that it might help if UC was open enrollment.

Craig Johnson said that this is the first year that the UC can market to high school students. At present UC is at the mercy of what the campuses chose to offer and how they chose to deliver it. He asked if UC could be more of a broker, negotiating with the regental schools on who is able to offer the programs. Discussion moved to the high price point of the UC. To provide context, it was explained that community colleges are priced low because some costs are subsidized by local tax dollars.

CUC Director Janelle Toman said that in whatever business model we may consider, she would like to see a greater recognition of the services provided by UC such as proctoring and student services for online (financial, academic counseling). She said CUC would benefit from a service in addition to a tuition based model.

Further discussion included how to lower instructional costs at UC, look at departmental offerings, etc.

In response to a question by Regent Johnson, Gene Bilodeau said BHSU-RC's change of identity to a branch campus is making a big difference. He explained that having all general education offered by one university is a clean model for students. The data available by next spring will give a better picture of success.

BHSU President Jackson said that when the name change occurred, they were able to automatically provide 9 more courses at the UC and add certificate programs.

Gene Bilodeau explained a partnership that BHSU-RC has started to forge with the local school district. He said an agreement that is being drafted with the school district to flesh out a concept that could benefit both the school district and university center. This concept introduces the idea of having instructors teach dual credit courses in the Rapid City high schools. If they get 20 students, then UC will pay the instructional cost. He also discussed their attempt at addressing needs and desires of business and industry. They are currently rolling out two nondegree programs that they are starting this year. With a flat rate, they will provide two institute programs, including focus on such things like project management. He said they work hard to gather information from the business community so they know they are meeting the educational requirements of the community.

In response to a question about the military tuition discount, Gene Bilodeau described the program as one that generates good will. He said they continue with the challenge of students being deployed midcourse, so they are working on building hybrid courses for these students.

Craig Johnson said Sioux Falls is a vibrant and engaged community, but UC has not yet created integration with the community. He believes there is still much opportunity for the Centers. UC-SF is just starting its Community Advisory group in an effort to better strike a true integration with the community. He said that students desire a sense of place and something is currently missing at the center that accomplishes this. He confirmed that the center is often bogged down by process and remains challenged by its generic identity.

Janelle Toman said that the unique demographics of a limited population base will continue to be a concern for CUC. She recommends that it continue to work closely with the community. There is a strong advisory committee and foundation. She also described that STI is providing coursework in the building and it does not have large numbers at present either. She further described the community education/noncredit courses provided in the building. Janelle Toman explained that she would like CUC to be a central South Dakota testing center because there is demand. Additionally, she would like CUC to move toward a service model.

In response to a question by Regent Johnson, Craig Johnson said it would be worth considering the single institution model such as BHSU-RC. He indicated that it would solve the identity problem. He provided a couple of other options, including a creation of a seventh regental institution that would focus on two-year programs.

To clarify an earlier comment he made about UC-SF being isolated, Craig Johnson said that the UC is on the edge of town and people don't connect with it. It is not integrated or coordinated with the community.

Janelle Toman explained that because most state employees already have bachelor's degrees, CUC doesn't cater to these individuals. She tried to offer a graduate program but wasn't able to proceed because the courses she was trying to offer were all already provided online.

One of the critical issues is that there are multiple market segments. Because of this we need an in-depth market analysis to understand what is out there and how to reach it. UCs were developed for individuals 30 years or older, working, and who already have some credits. And that is how the buildings were designed. However, at present the majority of students at UC are under 30 and the set up doesn't cater to them.

On another note, Regent Jewett asked if high school students took the ACT and got scores that didn't require any remedial courses, why can't we automatically admit them into the universities? Dr. Rush explained a recent Idaho program called the Directed Admissions Program. In other words, if a student met the ACT, GPA, and university criteria, the student was sent a letter to let them know they were automatically admitted.

A copy of the Future University Center Models can be found on pages 2579 to 2596 of the official minutes.

DISCUSSION OF HOUSE JOINT RESOLUTION 1003

Dr. Paul Turman, Board of Regents' System Vice President of Academic Affairs, summarized House Joint Resolution 1003, which seeks to establish the constitutional distinction between the oversight provided by the Board of Regents and the Technical Institutes in the state. He explained that in working with the sponsors of the Joint Resolution, the Board of Regents sought language that intends to permanently and unambiguously distinguish between career and technical education provided by the technical institutes and the academic and professional education provided by the state's university system.

Regent Jewett announced his dissatisfaction with this proposed amendment especially since he felt that the Board was not adequately organized to form a joint position. He went on to describe historical examples of mission creep by the technical institutes.

As the regents considered the actions leading up to the citizens' vote, the options were re-introduced: (1) accept the proposed amendment as currently worded, (2) take the proposed language and work to clarify the intent with additional language, or (3) work to defeat the amendment.

Regent Johnson expressed frustration, stating that she believes creating two systems of higher education is bad policy in a state as small as South Dakota. She said with all the rhetoric involving streamlining and efficiency, two higher education systems seems very inefficient and not in the best interest of students. She would like to give the legislators options of models that would be streamlined, efficient, and better for students.

Regent Sutton reminded the group that the change in governance accomplished by HB1118 went into effect as of July 1, 2015.

Regarding the amendment, Regent Bastian said that he doesn't believe the regents can take a position until the legislation has been finished. Although he does agree that we could speak with legislators in the meanwhile.

A copy of the Discussion of House Joint Resolution 1003 can be found on pages 2597 to 2610 of the official minutes.

FY2017 BUDGET DEVELOPMENT

Dr. Monte Kramer, Board of Regents System Vice President of Finance and Administration, led the regents in discussion about the proposed FY17 Budget Priorities.

Regent Sutton urged the Board and presidents, with Dr. Kramer's help, to engage the Board and presidents in a thoughtful conversation over the next year about building a strategy and plan around the subject for a matching grant. This would allow a thoughtful ask in the next budget round.

A copy of the FY2017 Budget Development can be found on pages 2611 to 2629 of the official minutes.

WEDNESDAY, AUGUST 12, 2015

Regents' President Randy Schaefer called the meeting of the Board of Regents to order at 9:30 a.m. on August 12, 2015, and declared a quorum present.

DISCUSSION OF GENERAL EDUCATION REVIEW-ACTION ITEMS

Dr. Turman gave background information pertaining to the events that led up to the development of the System General Education Review Steering Committee. He described current policy related to general education requirements, the direction provided by the Board at the 2014 planning session in regard to the general education review, the development of the General Education Review Steering Committee, and the work that has been conducted since that time. He explained that as a result of its work, the committee has formulated a series of action items for consideration by the Board of Regents. These recommendations cover six broad areas and propose eleven suggested action items.

Dr. Turman presented information on transfer and swirling students. He said that system wide the total number of new transfer students in the system is down 15.2%. While hearing the data, regents asked for additional information that showed the numbers of students transferring out of each institution, in order to compare it to the number of students transferring into the institutions. Dr. Turman explained that the data was presented to introduce the discussion around ease or difficulty of transferability. He said currently unless there is an articulation agreement in place, the transferability of credits is examined course by course. In many other systems, however, institutions will accept an associate degree as meeting all the requirements of general education requirements.

Discussion ensued about the idea of extending the time allowed for students to accomplish their 30 system general education requirements. Some regents felt that being able to complete these credits in the first 64 credits earned may help with students seeing them as courses they need to get "out of the way." Perhaps this would allow students to engage in interest areas and then understand how core skills taught in general education courses would help them be successful.

SDSM&T President Wilson explained that she feels that South Dakota currently has a strong core of requirements. She cautions changes to the requirements because she believes they are currently strengths.

Dr. Turman clarified that ultimately the regents will approve learning outcomes and competencies that the steering committee recommends after Phase II of the project.

Dr. Turman then described the use of the CAAP exam, which is mentioned in the recommended action items. Regent Jewett confirmed that a measure such as the CAAP satisfies questions of minimal competency by the legislature and others. Regent Baloun reminded the group of the many independent national competency tests that could be easily used for this purpose.

Dr. Rush said that the point of developing learning objectives is to better incorporate these objectives into the coursework. In response to a question by Dr. Rush, Dr. Turman provided comments on the differing core requirements between the associates and bachelor's degree. Discussion ensued regarding the difficulty of transferability of out-of-state students who have an

associate's degree due to the fact that we may require that they take additional coursework to ensure the equivalency.

Regent Baloun urged the group to keep an open mind and work to come up with solutions instead of problems. For instance, if the University of Nebraska will accept more transfer credits than the South Dakota regental system, why should we not do the same? Dr. Palmer and others shared examples and stories of difficulties in transferability. The group agreed that examples and stories are very helpful in this regard.

A copy of the Discussion of General Education Review-Actions items can be found on pages 2630 to 2651 of the official minutes.

AFFORDABILITY AND FUNDING STRUCTURE

Restructuring Scholarship Programs

Dr. Turman provided an overview of the significant issues that exist with South Dakota's approach toward state funded/managed scholarship programs, which currently includes six divergent scholarship programs. Among the significant issues are the absence of a mechanism for maintaining the buying power for merit-based scholarships, the absence of a realistic need-based funding structure which adversely affects postsecondary affordability for academically prepared low-income students in the state, and stakeholders (parents, educators, students, and staff) lack a common gateway for obtaining information and the necessary guidance for successful utilization.

The regents considered options for creating a more comprehensive, sustainable, and impactful scholarship framework than the state's current approach. Dr. Rush said that he has experience with this very issue. He explained that in Idaho they did a very in-depth analysis of the scholarship program and how effective it was in achieving their goal. He said because the legislature was heavily invested, they put together a task force including legislators, first lady, and others. Experts were hired to educate the group on best practices and helped them to define a joint strategy.

A copy of Restructuring Scholarship Programs can be found on pages 2652 to 2653 of the official minutes.

Matching Tuition Policy with Institution Types

Dr. Kramer and Leah Ahartz provided a summary of the budget item presented the previous day as well as a FY2017 Budget Priority Capital Project Matching Fund narrative of the item that was added to the one-time priorities. Regents discussed the priority order.

Dr. Kramer described the historical tuition difference between research and comprehensive institutions in South Dakota, explaining that in 1998 tuition rates were standardized and that remained in place until 2012. Rates were again differentiated between the sectors in 2013. SDSM&T was allowed to further differentiate on non-residents starting in FY15 and then residents in FY16.

He then presented a series of facts that provided a comparison of South Dakota data/practices with other states' data/practices in regards to tuition policy by institution types. In doing so, he explained that most states differentiate between the cost to attend a research university and a comprehensive institution. He said, in most states if a student chooses to attend a typically larger research university, they will often pay a tuition price premium of \$2,000 or more per year. This structure supports the research environments and also makes the comprehensive schools more competitive on price. He noted that this price difference does not include special discipline fees. He provided a comparison of revenues generated by special discipline fees, showing the extra costs that research universities charge. He also argued that the comprehensive institutions are probably overpriced.

When considering whether or not the regental system should continue to charge differential pricing, Dr. Kramer urged the group to remember that South Dakota's tuition is already significantly higher in the region and above the national average, yet because of low state funding our funding per FTE is around the national average. These data would suggest that raising tuition and fees further will only create affordability and access problems for students.

NSU President Smith asked how NSU could be ranked one of the most affordable comprehensive institutions in the nation when the data presented indicates otherwise. The group considered whether or not the recognition only considers out of state students or incorporates special discipline fees.

Regent Jewett explained the reasons why the income generated by the small schools has more impact than it does on the big schools. He urged the group to consider undoing differential tuition.

In response, Regent Sutton noted that he voted against tuition differential when the question was called earlier this year. However, as he now watches his daughter apply to the University of Minnesota Twin Cities, he can clearly see how the Minnesota system prices its institutions differently. He asked why South Dakota would be different than surrounding states as it relates to differential tuition.

Additional discussion about decisions leading up to differential tuition and redistribution of funds followed.

A copy of the Affordability and Funding Structure items can be found on pages 2652 to 2692 of the official minutes.

As noon approached, Regents' President Randy Schaefer asked that this conversation continue following the business meeting.

Regents' President Randy Schaefer transitioned the regents to the regular business portion of the meeting at 1:10 p.m. and declared a quorum present. He welcomed Dr. Mike Rush as the new Executive Director of the South Dakota Board of Regents.

WELCOME AND PRESENTATION BY MIKE RUSH, EXECUTIVE DIRECTOR & CEO

Executive Director Mike Rush expressed his appreciation for the opportunity to serve in this capacity.

APPROVAL OF THE AGENDA

IT WAS MOVED by Regent Sutton, seconded by Regent Schartz, to approve the agenda with the exception of 12-A 2016 BOR Calendar, which should be deferred until the October meeting. All members voted AYE. The MOTION CARRIED.

APPROVAL OF THE MINUTES

IT WAS MOVED by Regent Sutton, seconded by Regent Bastian, to approve the minutes of the regular meeting on June 9-11, 2015. All members voted AYE. The MOTION CARRIED.

REPORT AND ACTIONS OF EXECUTIVE SESSION

Upon convening at 7:15 p.m. on Monday, August 10, 2015 the Board dissolved into executive session in order to discuss personnel matters. As shown on the published agenda, it adjourned at 9:00 p.m. and reconvened in executive session at 7:30 a.m. on Tuesday, August 11, 21015, in order to discuss personnel matters, pending and prospective litigation, and contractual matters, and to consult with legal counsel; and it arose from executive session at 9:30 a.m. to begin discussions related to its annual retreat; it reconvened at 12:00 p.m. on Wednesday, August 12, 2015, in executive session to discuss contractual matters; and it rose from executive session at 1:10 p.m. to report its deliberations in all executive sessions and resume the regular order of business.

Regent Baloun reported that while in executive session, the Board considered personnel matters, pending and prospective litigation, and contractual matters, and 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 Sutton, 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 appointment of Demitris Kouris as SDSM&T's vice president for academic affairs and provost at an annualized salary of \$220,000 with an effective date of August 10, 2015; accept the appointment of Steve C. Kelsey as Transition Specialist at an annualized salary of \$50,951 with an effective date of July 22, 2015; accept the salary increase for Monte Kramer, system vice president for finance and administration, at an annualized salary of \$193,786 effective June 22, 2015; accept the change in reporting structure for the DSU Foundation from president to vice president of business and administrative services; accept the appointment of Douglas Wermedal as interim vice president of student affairs effective June 22, 2015 at an annualized salary of \$129,029; accept the resignation of Marysz Rames effective June 30, 2015; accept the resignation of Karen A. Gerety effective June 21, 2015.

2. Award the title of Professor Emeritus of Natural Resource Management to Dr. Gary Larson (SDSU); and title of Assistant Dean Emeritus to Rhonda Hulkonen (USD). A copy of the resolution of recognition can be found on pages 2698 to 2699 of the official minutes.
3. Award a posthumous B.S. in Psychology to Gage McSpadden (BHSU).
4. Approve awarding three (3) years of prior service credit toward tenure and three (3) years of prior service credit toward promotion for Venkataramana Gadhamshetty (SDSM&T).
5. Approve the request to grant tenure to Dr. David Gilley (SDSM&T), Associate Professor of Chemistry and Applied Biological Sciences.
6. Approve the leave request for Kenneth M. Benjamin for Fall 2015 (SDSM&T).
7. Approve the System Scholarship Committee's recommendation to award Emily Sinclair (USD) and Donovan Kopetsky (NSU) the 2015-2016 Ardell Bjugstad Scholarship.
8. 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 2700 to 2866 of the official minutes.

All members voted AYE. The MOTION CARRIED.

REPORT OF THE COUNCIL OF PRESIDENTS AND SUPERINTENDENTS

Dr. Rush reported that most of the items that were discussed at the July Council of Presidents and Superintendents were topics that have been up for discussion at this year's planning session.

REPORT OF THE EXECUTIVE DIRECTOR

Dr. Rush provided a brief commentary about the high level of importance that education has in society. He said that all the state level conversations and activities that he has recently taken part of have included an important role for education.

A copy of the Interim Actions of the Executive Director can be found on pages 2867 to 2874 of the official minutes.

INFORMATIONAL ITEMS

Regents' President Schaefer referenced the Informational Items on the agenda and indicated that if a Regent would like to discuss any of the items, he or she could certainly do so.

Institutional Items of Information

The institutional items of information were provided from BHSU, DSU, NSU, SDSM&T, SDSU, USD, SDSBVI, and SDSD. A copy of the Institutional Items of Information can be found on pages 2875 to 2916 of the official minutes.

Building Committee Report

Through a building committee meeting the following items were approved: SDSU Wellness Center Building Addition, represented by Regent Schartz, selected StoneGroup/HOK as the architect for the project; SDSU Utility Tunnel, Steam/Condensate Infrastructure Repair and Modernization, represented by Regent Jewett, approved the bid from Clark Drew Construction

for a total of \$13,732,127; SDSU Harding Hall Renovation, represented by Regent Morgan, selected JLG Architects as the architect for the project; SDSM&T Chemical & Biological Engineering – Chemistry (CBEC) building south side renovation, represented by Regent Bob Sutton, approved the bid documents for the project at a total of \$6,559,000, contingent upon plumbing design approval. A copy of the Building Committee Report can be found on page 2917 of the official minutes.

12- CONSENT CALENDAR ITEMS

IT WAS MOVED by Regent Schieffer, seconded by Regent Schartz to approve consent agenda items 12-B through 12-I on a single vote.

12- A 2016 BOR Calendar – DEFERRED TO OCTOBER

Approve the 2016 BOR Calendar. A copy of the 2016 BOR Calendar can be found on 2918 of the official minutes.

12-B Program Modifications – USD

Approve USD’s program modification. A copy of the Program Modifications – USD can be found on pages 2919 to 2931 of the official minutes.

12-C New Certificate Request – BHSU – Criminal Justice

Approve BHSU’s Criminal Justice New Certificate Request. A copy of the New Certificate Request – BHSU – Criminal Justice can be found on pages 2932 to 2934 of the official minutes.

12- D Intent to Plan Request – SDSU – BS in Precision Agriculture

Approve SDSU’s Intent to Plan Request for a BS in Precision Agriculture. A copy of the Intent to Plan Request – SDSU – BS in Precision Agriculture can be found on pages 2935 to 2943 of the official minutes.

12-E Request to Seek Accreditation – NSU

Approve NSU’s Request to Seek Accreditation. A copy of the Request to Seek Accreditation – NSU can be found on pages 2944 to 2946 of the official minutes.

12-F Request to Seek Accreditation - USD

Approve USD’s Request to Seek Accreditation. A copy of the Request to Seek Accreditation – USD can be found on pages 2947 to 2949 of the official minutes.

12-G Agreement on Academic Cooperation – NSU

Approve NSU’s Agreement on Academic Cooperation. A copy of the Agreement on Academic Cooperation – NSU can be found on pages 2950 to 2953 of the official minutes.

12-H Agreement on Academic Cooperation – SDSM&T

Approve SDSM&T's Agreement on Academic Cooperation. A copy of the Agreement on Academic Cooperation – SDSM&T can be found on pages 2954 to 2959 of the official minutes.

12-I Graduation Lists

Approve the attached BHSU, NSU, SDSU, and USD graduation lists contingent upon the students' completion of all degree requirements. A copy of the Graduation Lists can be found on pages 2960 to 2977 of the official minutes.

All members voting AYE. The MOTION CARRIED.

12-J Export Control Item

The Board received information about the export controls item.

Regent Johnson asked for clarification about the individual employed for Export Control. Nate Lukkes explained that the individual employed is based out of South Dakota State University and travels across the state.

He pointed out that this is the first policy reading, and no approval is being requested. However, this policy will be brought to a future meeting for formal approval.

A copy of the Export Control Item can be found on pages 2978 to 2985 of the official minutes.

12-K CRG Program Update

The Board received information about the CRG program update. A copy of the CRG Program Update can be found on pages 2986 to 2997 of the official minutes.

12-L FY16 Operating Budgets

Dr. Kramer explained the purpose of the item introducing the FY16 Operating Budgets. He said these are approved at the beginning of the fiscal year and the board typically approves the budgets at the program level.

IT WAS MOVED by Regent Baloun, seconded by Regent Schieffer to approve the FY16 Operating Budgets. All members voting AYE. The MOTION CARRIED.

A copy of the FY16 Operating Budgets can be found on pages 2998 to 3021 of the official minutes.

12-M FY16 Minnesota Reciprocity

Dr. Kramer provided an overview of the item.

IT WAS MOVED by Regent Johnson, seconded by Regent Schieffer to approve the Minnesota Reciprocity Rates for FY16 and execute the Administrative Memo of Understanding. All members voting AYE. The MOTION CARRIED.

A copy of the FY16 Minnesota Reciprocity can be found on pages **3022** to **3028** of the official minutes.

12-N SDSU Precision Agriculture Classroom and Laboratory Building

Dr. Kramer provided an overview of the item.

IT WAS MOVED by Regent Schieffer, seconded by Regent Sutton to approve SDSU's Preliminary Facility Statement to plan for future construction of a Precision Agriculture Classroom and Laboratory Building. Approval of this project does not guarantee final project approval, but will allow SDSU to hire an A/E firm to begin development of schematic drawings. Approval will also allow SDSU to begin fundraising for this project. If approved, the Board President should appoint a building committee representative to oversee the planning of this project. All members voting AYE. The MOTION CARRIED.

A copy of the SDSU Precision Agriculture Classroom and Laboratory Building can be found on pages **3029** to **3037** of the official minutes.

BOR POLICY 2:3 - SYSTEM UNDERGRADUATE ADMISSIONS

Dr. Turman introduced changes to BOR Policy 2:3 – System Undergraduate Admissions.

Regent Morgan asked about the success rates of home schooled students in comparison to others. Dr. Turman explained that the performance is very comparable with a slightly increased need for remedial coursework by homeschooled students.

IT WAS MOVED by Regent Baloun, seconded by Regent Sutton to approve the revisions to BOR Policy 2:3.

Regent Schieffer asked about the timeline of the implementation of the policy. Dr. Turman said that it would be useful to have this policy in place for the beginning of this school year, but the Board can decide to formally approve after a second reading if that was preferable. Dr. Rush explained that his intention was to go forward with this particular policy if the Board was willing.

All members voting AYE. The MOTION CARRIED.

A copy of the BOR Policy 2:3 – System Undergraduate Admissions can be found on pages **3038** to **3055** of the official minutes.

BOR POLICY 2:10 – W GRADE ADDITIONS

Dr. Turman introduced suggested changes to BOR Policy 2:10 Revisions – W Grade Additions.

IT WAS MOVED by Regent Sutton, seconded by Regent Johnson to approve the revisions to BOR Policy 2:10. All members voting AYE. The MOTION CARRIED.

A copy of the BOR Policy 2:10 – W Grade Additions can be found on pages **3056** to **3066** of the official minutes.

BOR POLICY 1:18 & 3:4 – STUDENT CONDUCT CODE

Dr. Shekleton explained the proposed changes to BOR Policies 1:18 and 3:4.

IT WAS MOVED by Regent Baloun, seconded by Regent Morgan to adopt the proposed changes to Board Policy No. 1:18 and 3:4.

Regent Jewett expressed concern with policy 1:18 as written. He proposed that it be deferred until the bill of rights and procedures are clearly included. He also suggested that the policy and procedures be reviewed by the Attorney General.

Dr. Shekleton noted that he had previously circulated documentation showing the scope of student due process rights within the context of internal university disciplinary proceedings. He commented that he continued to review new cases involving current challenges to procedures that reflect the 2011 Office of Civil Rights Guidance, and he confirmed the proposed policy changes comport with settled law. Additionally, the proposed policy changes do not address the OCR Guidance, but rather implement duly adopted federal regulations issued under the Violence Against Women Reauthorization Act amendments to the Clery Act, and these, unlike the Guidance, have the force of law. Dr. Shekleton cautioned the Board to consider carefully the precedent of inviting the Attorney General to review draft policies, particularly in light of forty years of precedent that confirmed the Board's control of its legal affairs. Dr. Shekleton assured the Board that many of the concerns raised by Regent Jewett are more properly considered in connection with student disciplinary procedures contained in BOR Policy 3:4 which has been under full revision and is slated for Board review at its October meeting. He is very comfortable that these policies, with the recommended changes, adhere to current legal standards, although the policies provide for procedures that meet basic constitutional requirements. Dr. Shekleton indicated that if the Board prefers to create rights that exceed constitutional requirements, such language can be included in the revised policy.

Regent Jewett explained that he fully agreed with comments regarding the Attorney General governance of internal policies in general; however, in this case, he believed that the concerns of officials charged with prosecuting criminal charges may warrant consultation; not veto, but consultation. Regents, presidents, hearing officers, witnesses could risk Individual Criminal prosecution for witness tampering, withholding evidence, or obstruction of justice or other violations if actions or inactions materially complicate or compromise the prosecution. No official in State Government has more or broader discretion than a prosecutor deciding to bring or not bring charges. Regent Jewett expressed concern that requirements that students accused of misconduct cooperate with internal investigations and hearings could make the prosecution of

these cases highly problematic. The board is mandating system wide adherence to detailed policies. 20 days are allowed to the investigating official to rule on the validity of the charge. He insisted that his primary concern was for assurance that the Board's policies conform to the rights afforded to individuals under the bill of rights and the fourteenth amendment. Document attached entitled Draft # 2, dated August 5, 2015, relating to Board policies and draft policies #'s 1:7.1, 1:18, 3.4 is incorporated by reference herein which is a summary of Regent Jewett's position and was distributed to the Regents at the meeting. He said if the "State" (University) is alleged to have violated 5th Amendment rights, for example, such as requiring cooperation with the panel then the on threat of expulsion, prosecution must prove that it had no access and no knowledge of information disclosed and can make no use of any evidence derived or obtained directly or indirectly from such violation. Because the prosecution must then bear the burden of proof, a huge block to prosecution is created. He cautioned that this issue has the capacity to hurt the university system unless we have a system designed to protect the truly innocent people. He thinks that the bill of rights is a necessary constitutional function and should be included in the policy and not simply be implied in our now mandated procedures.

Dr. Shekleton noted that BOR Policy 3:4 Student Code of Conduct does spell out rights to the person accused. It specifically requires written notice to the person accused of misconduct fifteen days prior to the hearing. He said the written notice should identify the reasonable basis for a proceeding, which should include the factual allegations and the names of those being called to testify. Because the requirement for written notice is included in the student conduct code, it affords a process to give the accused specific information of what they are going to be required to respond to and what kind of evidence will be in place. He also explained that the student conduct code incorporates by reference all constitutional and statutory rights, which includes the bill of rights and the parallel South Dakota constitutional provisions.

He explained that there is a basis in the code for students to deny a response on the advice of counsel. Students who have been accused or charged with serious crimes of violence come through our disciplinary hearings or they may not show up at all. Our policies do not permit that nonappearance or nonresponse to be evidence of culpability. It is still required that the university show, more likely than not, that the student violated the policies of the institution, not the law. Several of the constitutional concerns, e.g., the prosecution's duty to disclose exculpatory evidence, being articulated are embedded in criminal law jurisprudence and are neither generally applicable to civil litigation, nor to mere internal disciplinary procedures.

Regent Schieffer said that this exchange is indicative of the slippery slope that we get when we turn our institutions into courts of law. He called the question.

IT WAS MOVED by Regent Schieffer, seconded by Regent Sutton to adopt the proposed changes to Board Policy No. 1:18 and 3:4. Eight members voting AYE, Regent Jewett voting NAY. The MOTION CARRIED.

A copy of document referenced by Regent Jewett entitled Draft # 2, dated August 5, 2015, relating to Board policies and draft policies #'s 1:7.1, 1:18, 3.4 can be found on pages 2570 to 2572 of the official minutes.

A copy of the BOR Policy 1:18 & 3:4 – Student Conduct Code can be found on pages 3067 to 3075 of the official minutes.

BOR POLICY 1:31 – EXCLUSION OF MEMBERS OF THE PUBLIC FOR DISRUPTION OF INSTITUTIONAL ACTIVITIES OR FOR MISCONDUCT

Dr. Shekleton explained the proposed changes to BOR Policy 1:31.

IT WAS MOVED by Regent Johnson, seconded by Regent Sutton to approve BOR Policy 1:31.

In response to Regent Bastian, Dr. Shekleton said he modeled this policy off of state institutions in both Ohio and Arkansas. He said this has come up in cases of domestic disputes and disgruntled employees who have found ways around the expectation that they no longer come to campus. Regent Bastian asked if there was any necessity that this be passed in August. Dr. Shekleton said there was not.

IT WAS MOVED Regent Bastian, seconded by Regent Schieffer to postpone BOR Policy 1:31 until October.

Regent Bastian said he would like to further digest the information, ask questions, and get comfortable with the policy as written.

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 3076 to 3081 of the official minutes.

SDSU REQUEST FOR AUTHORIZATION – STORAGE STRUCTURE

Dr. Shekleton provided an overview of the item.

IT WAS MOVED by Regent Morgan, seconded by Regent Schartz to authorize South Dakota State University to proceed with the replacement and consolidation of a building (approximately 5,000 square feet) for the maintenance and storage of residential life equipment and approve the expenditure for these purposes of approximately \$300,000, from bond proceed interest earnings. A copy of the SDSU Request for Authorization – Storage Structure can be found on page 3082 of the official minutes.

HOUSING REPORT

Dr. Kramer and Scott Van Dem Hemel explained that it was appropriate to share a housing report with the regents in preface to the next bonding cycle that will come to the Board in October.

After an overview of the item, the Board agreed with the direction proposed by the staff.

IT WAS MOVED by Regent Sutton, seconded by Regent Bastian to request that BHSU, DSU, NSU and SDSU submit proposals on how they will meet the 2% maintenance and repair requirement in order to properly maintain their residential facilities, in the case that they do not

meet the projected occupancy. These proposals would be approved by December 2015. All members voting AYE. The MOTION CARRIED.

A copy of the Housing Report can be found on pages 3083 to 3261 of the official minutes.

FY17 BUDGET REQUEST

Dr. Kramer and Leah Ahartz provided an updated budget request item, reflecting the conversation the Board had at its retreat the previous day.

The regents discussed the nuances surrounding the tuition freeze. Dr. Kramer provided a description of the Board's latitude if a tuition freeze was made possible by the legislature.

Regent Schaefer asked the regents if there is any objection to defer item 19. FY17 Budget Request until after the retreat item on tuition has been discussed. There was no objection. A copy of the FY17 Budget Request can be found on pages 3262 to 3263 of the official minutes.

THE BOARD WENT INTO RECESS TO COMPLETE THE RETREAT DISCUSSIONS AND PROVIDE A VOTE FOR THE BUDGET REQUEST ITEM

Regent President Randy Schaefer resumed the planning session at 3:30 p.m.

AFFORDABILITY AND FUNDING STRUCTURE - CONTINUED

Matching Tuition Policy with Institution Types

Regents continued discussion about matching tuition policy with institution types. They discussed the details surrounding a budget freeze request if the regents wished to discontinue differential tuition and raise tuition for the comprehensive institutions. Separately they discussed whether or not the Board philosophically agrees to employ differential tuition in the regental system.

The presidents weighed in with their perspective on differential tuition. In general, there was no particular opposition to differential tuition but they felt the market place should be considered. Some presidents noted that they would prefer concentrating on quality programs rather than spreading the money across the board.

It was reiterated that the system's master's comprehensive institutions are costly because these types of schools do not usually charge discipline fees. It was also noted that the affordability priority conflicts with the idea of raising tuition to neutralize the differential.

Regents' President Schaefer tasked the Board with better understanding the real cost of delivery at the institutions. He said the differential was an attempt to make better sense of tuition setting.

Dr. Rush said that financing public education is something that every state struggles with. He said in his brief time in South Dakota, he does not believe that citizens in the future will be able to afford higher education in South Dakota. He said we need to be cognizant of the political message we send to the Governor, legislature, and students. We also need to consider the

competing delivery models of the future. He believes we need to get more money into the system but not necessarily through tuition.

Dr. Rush said there are multiple models for delivering higher education and the competition for students is getting increasingly tight. If the regental system cannot provide multiple access points, another entity will find a way to provide them.

Regent Baloun reminded the group of the shortfalls that the universities have had to cover over recent years. He said many of the efficiencies have been wrung out due to these shortfalls.

Regent Bastian said he voted against this proposal in March because he felt that it was disingenuous to come to the legislature with one request and walk out with another. He said he is more comfortable going to the legislature with the proposal being discussed.

Dr. Kramer emphasized that if they take this request to the legislature, they would be saying they need additional funds for the small schools.

In terms of framing this budget request, Dr. Rush explained that he would not explain this additional ask as part of the tuition buy down, he would ask the small schools to explain how they would spend the money and make it a separate ask. Regent Baloun addressed the cons of clearly defining how the money would be spent.

On a separate note, Regent Johnson asked the Board to consider the presentation that was provided by Dakota Lakes Research Farm at breakfast. She noted that this should be a topic for consideration of future funding, perhaps in next year's budget request.

IT WAS MOVED by Regent Jewett, seconded by Regent Bastian to approve the proposed budget request with a subpart that would describe an additional base increase request of \$550,000 for the master's comprehensive schools. Eight members VOTING AYE, Regent Sutton voting NAY. MOTION CARRIED.

A copy of Matching Tuition Policy with Institution Types can be found on pages 2654 to 2657 of the official minutes.

UNIVERSITY CENTERS - CONTINUED

Regent Schieffer said the system should stop being its own enemy. He thinks it would be useful to have a committee appointed to examine the options to improve performance at the University Center in Sioux Falls.

He would like to work with the presidents that are involved in the community, staff, and directors and come back with a proposal that they could have implemented by October. The governance structure is something that needs to be fixed, exactly how, is unclear but should be examined by committee. This needs to be done quickly.

IT WAS MOVED by Regent Schieffer, seconded by Regent Bastian to form a committee to develop a proposal for the university centers to be acted on at the October BOR meeting. The MOTION CARRIED.

ADJOURN

IT WAS MOVED by Regent Bastian, seconded by Regent Schartz to adjourn the meeting of the Board of Regents on August 12 at 4:55 p.m. All members voting AYE. The MOTION CARRIED.

The South Dakota Board of Regents adjourned its annual planning session and business meeting on August 11-12, 2015 and will meet again in regular session on October 7-8, 2015 in Aberdeen, 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 August 11-12, 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