

## **KANSAS BOARD OF REGENTS**

### **MINUTES**

November 17, 2021

The November 17, 2021, meeting of the Kansas Board of Regents was called to order by Chair Cheryl Harrison-Lee at 12:12 p.m. The meeting was held in the Board Office located in the Curtis State Office Building, 1000 S.W. Jackson, Suite 520, Topeka. Proper notice was given according to law.

MEMBERS PRESENT:

- Cheryl Harrison-Lee, Chair
- Jon Rolph, Vice Chair
- Bill Feuerborn
- Mark Hutton
- Carl Ice
- Shelly Kiblinger
- Cynthia Lane
- Allen Schmidt
- Wint Winter

### **EXECUTIVE SESSION**

At 12:12 p.m., Regent Ice moved, followed by the second of Regent Hutton, to recess into executive session in the Kathy Rupp Conference Room for 48 minutes to discuss personnel matters of non-elected personnel. The subject of this executive session was the discussion of one or more candidates for employment with the Board, and the purpose was to protect the privacy interests of the candidate(s). Participating in the executive session were members of the Board and President Flanders. The motion carried. At 1:00 p.m., the meeting returned to open session. The Board moved to the Board Room to proceed with the open portion of the Board agenda.

### **APPROVAL OF MINUTES**

Regent Rolph moved that the minutes of the September 15-16, 2021 meeting be approved. Following the second of Regent Hutton, the motion carried.

### **GENERAL REPORTS**

#### **REPORT FROM CHAIR**

Chair Harrison-Lee reported that in October the Board visited the University of Kansas Medical Center and the University of Kansas Lawrence. The Regents had the opportunity to interact with students, faculty and staff at both campuses, and Chair Harrison-Lee thanked Chancellor Girod and his team for organizing the visits. As a follow-up from the Medical Center visit, President Flanders and Chair Harrison-Lee met with KU and KU Health System leaders to discuss how the higher education system can partner with the Health System to enhance economic development in Kansas. The group will continue to discuss projects and timelines, and the Chair will present that information to the Board at a future meeting. Chair Harrison-Lee also reported that she and several other Regents attended President Muma's inauguration and thanked President Muma and his staff for their hospitality. Last week, the Chair and President Flanders along with members of the Kansas Senate and Kansas Department of Commerce participated in a meeting that looked at ways

to retain students through a NextGen Under 30 program, which could impact the talent available to businesses by increasing student retention rates. Additionally, Chair Harrison-Lee reported that on Thursday the Board will be at Emporia State University for a campus visit and that she looks forward to touring the campus and connecting with campus constituents.

#### REPORT FROM PRESIDENT AND CEO

President Flanders reported that last week he and Regent Schmidt attended the annual Midwestern Higher Education Compact (MHEC) Commission meeting. He noted that many states are facing similar challenges with declining enrollments and changes in demographics. Through the State's MHEC membership, the Kansas higher education system is able to utilize MHEC contracts including MHEC's student health insurance and property insurance contracts. President Flanders also reported that Kansas Legislative Post Audit staff have started a limited scope audit of developmental education. Board staff will provide the auditors with data and background. Auditors have also been asked to assess why developmental education courses are necessary. They have reached out to the provosts at every institution to identify instructors and faculty who deliver those courses. If any campus has not responded, President Flanders encouraged them to contact the auditor, Heidi Zimmerman, so that every campus can contribute to the survey.

Regent Winter asked if there are programs that other states are doing well that our system should look at replicating. President Flanders stated that one topic discussed at MHEC was a talent development initiative that involved an entire system and employers in a state. In the initiative, the system is trying to increase attainment levels in a specific area, and President Flanders noted that he plans to look at the details of this initiative to see how it was implemented. He is also going to look at how systems are recruiting companies. Regent Schmidt stated that one thing he learned was that many of the states are preparing for decreases in enrollments because high school graduations are down; however, the data for Kansas show an increase in high school graduation rates. He noted that MHEC has a dashboard that provides data and key performance indicators on the participating states.

#### REPORT FROM COUNCIL OF FACULTY SENATE PRESIDENTS

Janet Stramel presented the Council of Faculty Senate Presidents report. The Council continued to discuss how the COVID-19 pandemic has impacted teaching, research, and faculty morale. Since the beginning of the pandemic, faculty have seen their workloads increased, have had to adjust their teaching methods to include multiple modalities, and are finding it difficult to balance their work and home life. Stress levels continue to increase, which has led to increases in retirements and departures. The Council has no solutions for these issues, but wanted the Board to understand what the environment on the campuses is like for faculty members. Dr. Stramel did note that the faculty feel the university administrations are supporting them during these difficult times. The Council also discussed their concerns with the system's retention rates and the vaccine mandates. Dr. Stramel stated that the Council supports complying with the federal mandate because losing federal contracts would be devastating to the universities. The Council discussed the role of shared governance and the importance of including members from the different groups on councils or committees. Dr. Stramel also stated that the Council would like to receive information on how the Board forms its presidential search committees.

### REPORT FROM STUDENTS' ADVISORY COMMITTEE

Mark Faber presented the Students' Advisory Committee report. The Committee met several times last month to discuss a letter, drafted by a couple of the Committee members, that expresses the importance of creating a safe campus environment and supporting victims of sexual assault. The Committee adopted the letter with a 2/3 majority vote, and it was noted that Fort Hays State University and Wichita State University voted against adoption only because they believe their campuses are already addressing the concerns that are expressed in the letter. Mr. Faber stated that the Committee members who voted to adopt the letter have signed it and sent it to their university administrations. The Committee then discussed its goal on student health insurance, and ways to increase student interaction with legislators. The University Student Health Center Taskforce that the Board is considering later today was also discussed, and the students asked the Board to consider adding a student representative to the taskforce if it is formed. Regent Winter asked if the Committee has one or two specific points it would like the Board to include in its communication to the Governor and Legislature on why the students believe the state needs to support higher education. Mr. Faber stated the Committee will discuss this request at its next meeting.

### STANDING COMMITTEE AND OTHER REPORTS

#### ACADEMIC AFFAIRS

Regent Kiblinger reported that the Board Academic Affairs Standing Committee approved Cloud County Community College's request to change its performance agreements and approved changes to the private postsecondary regulations. The regulatory changes will implement the clarifying and strengthening provisions of the amendments to the Private Postsecondary Act that were passed last Session. the Board's authority over private and out-of-state postsecondary institutions operating in Kansas, allowing for increased consumer protection and institutional accountability. The Committee received presentations from the university provosts on the common themes that are used within each of their academic program review processes. The Committee also received an update on the activities of the Advantage Kansas Coordinating Council.

#### FISCAL AFFAIRS AND AUDIT

Regent Hutton presented the report for the Fiscal Affairs and Audit Standing Committee. The Committee reviewed the items on the Board agenda related Fiscal Affairs and Audit. Regent Hutton noted that on the Board's consent agenda there are several capital projects, two of which will be moved to the Board's discussion agenda so that he may recuse himself from the Board's action on those projects but act on others. The Committee discussed the FY 2023 housing and food service rates and requested the following: (1) that the universities present a uniform approach in calculating occupancy rates, and (2) for each university to present a plan to replenish the financial reserves of these auxiliary enterprises. The student health center proposal was briefly discussed, and it was noted that the intent of the proposal is to focus on existing data for analysis and not to eliminate the student health fees, but to ensure that the centers are offering the most affordable health care to students with a high level of accountability to student safety. Vice President Frisbie presented an overview of Regents System employee pay adjustments and actions taken by the Legislature in recent years with regard to state employee pay. The Committee requested information on how the universities have applied merit adjustments versus providing

across the board pay adjustments to eligible employees. Because this expense is so large, the universities have little to no opportunity to address the matter with constricting budgets. Senior Director for Finance & Administration Kelly Oliver presented the Board Office's budget for FY 2022, and Director of Facilities Chad Bristow gave an update on the work underway with the Board's capital renewal initiative.

Regent Winter asked for additional information on what progress has been made on the university student health center study. Regent Hutton stated that since the September meeting, he has worked with President Flanders and Dr. Debbie Haynes to narrow the scope to cover only the following items: 1) review the impact of third-party insurance billing on the overall operating cost and on student fees, and 2) review the organizational structure of the state university student health centers to ensure student safety. Regent Hutton stated the proposal was also updated to include two additional taskforce members identified by the state universities – one from the regional universities and one from the research universities. Regent Winter stated that in September the university CEOs expressed concerns with staffing and workload issues related to this review and wanted to know if those concerns have been addressed. Regent Hutton stated the study will focus on analyzing existing data that should be available through each center's normal record keeping process. He also noted the taskforce is ready to begin its work if the Board approves the proposal later in the agenda.

#### GOVERNANCE

Regent Harrison-Lee reported that the Governance Committee approved proposed amendments to the Building Naming policy and the University CEO Out-of-State Travel policy. The changes to both of these policies will be forwarded to the Board for consideration at a future meeting. The Committee continued to discuss the rollout of the Board's free speech guidance and reviewed proposed amendments to the university CEO assessment tool. The proposed amendments incorporate more references to and components of the Board's strategic plan, *Building a Future*. Board staff will seek additional feedback on the proposed amendments and will bring a recommendation to the Board in December. The Committee also discussed the communication and advocacy plan for the unified budget request and received information on the Kansas State Board of Education's request to review the Board's service area policy. Board staff recommended gathering additional feedback on the issues and increasing communication with the school districts so that they are aware of and understand the waiver provision in the current policy. The Committee concurred with the recommendation.

#### RETIREMENT PLAN

Regent Harrison-Lee stated that the Retirement Plan Committee (RPC) met on October 19, 2021. The RPC reviewed the FY 2021 Mandatory and Voluntary Plan-related expenses, recommended a formula for allocating those expenses, and recommended that the Board approve those expenses to be paid from the TIAA and Voya revenue accounts. If approved by the Board, the excess remaining in the revenue accounts will result in the return of over \$1.15 million to Plan participants for FY 2021. The RPC also recommended that the Board amend the Committee's Charter to delegate the review of Mandatory and Voluntary Plan-related expenses in the future. The RPC received the semi-annual reports from the Board's investment consultant, Advanced Capital Group (ACG). Two funds in the TIAA fund lineup were placed on watch. ACG also reviewed new

guidance from the United States Department of Labor related to cybersecurity and has been working with Board staff to ensure the Plans are utilizing these best practices.

#### AMEND AGENDA

Chair Harrison-Lee stated that Regent Hutton has disclosed that he has a conflict with the Kansas State University West Memorial Stadium project, which is item three on the Fiscal consent agenda. She amended the agenda to remove it from consent and placed it on the Fiscal Affairs and Audit discussion agenda as new item three so that Regent Hutton can vote on the other consent items and step out of the meeting when the West Memorial Stadium item is discussed and acted on.

Additionally, Chair Harrison-Lee amended the agenda to add “Amend the FY 2023 Capital Improvement Plan to Increase the Project Budget for the Convergence Sciences 2 Facility for Digital Transformation” as item four under the Fiscal Affairs and Audit discussion agenda. She noted that Regent Hutton also has a conflict with this item as well and will remain absent from the room while it is being discussed and acted on.

Chair Harrison-Lee also amended the agenda to add “Act on ESU Search Process and Appointment of an Interim President at Emporia State University” as item five under Other Matters on the discussion agenda.

#### APPROVAL OF CONSENT AGENDA

Regent Kiblinger moved, with the second of Regent Rolph, that the Consent Agenda be approved. The motion carried.

#### *Academic Affairs*

##### MASTER OF SCIENCE IN ATHLETIC TRAINING – WSU

Wichita State University received approval to offer a Master of Science in Athletic Training. This program will total 62 semester credit hours. The estimated cost of the program for the first three years is as follows: year one - \$299,667, year two - \$303,985, and year three - \$305,409. Student tuition and fees will finance the program.

##### MASTER OF SCIENCE IN MATERIALS ENGINEERING – WSU

Wichita State University received approval to offer a Master of Science in Materials Engineering. This program will total 33 semester credit hours. The estimated cost of the program for the first three years is as follows: year one - \$107,338, year two - \$125,093, and year three - \$141,431. Student tuition and fees will finance the program.

#### *Fiscal Affairs & Audit*

##### RAZE BUILDING – PSU

Pittsburg State University received authorization to raze the Biology Reserve Shed B, building number 38500-0015. The estimated cost to remediate and raze the structure is between \$10,000 and \$12,000, which will be financed with

departmental operating funds. The vacated area will then be converted into green space.

AMENDMENT TO FY 2023 CAPITAL IMPROVEMENT REQUEST FOR MCPHERSON HALL – PSU

Pittsburg State University received approval to amend its FY 2023 Capital Improvement Plan to reflect an increase in the total project cost for the McPherson Hall expansion and renovation project. In December 2020, the Board approved the architectural program, which had a projected cost of \$6 million. Since then, inflationary pressures in construction projects have resulted in a revised cost estimate of \$8.1 million. It is anticipated that private donations will fund the project, but PSU may use reserves if necessary to cover any remaining gap to the total project cost.

AMENDMENT TO FY 2023 CAPITAL IMPROVEMENT REQUEST AND PROGRAM STATEMENT FOR MOSIER HALL – KSU

Kansas State University received approval to amend its FY 2023 Capital Improvement Plan to include the Mosier Hall consolidation project. The College of Veterinary Medicine received a \$3,430,993 National Institutes of Health (NIH) grant for this project. The laboratory areas of the suite will be constructed to meet NIH requirements for Biosafety Level 2 space. The project Program Statement was also approved.

ACCEPTANCE OF REAL PROPERTY – KSU

Kansas State University received authorization to accept ownership of an 80-acre tract of pastureland near Colbert Hill in Riley County, Kansas from the KSU Foundation.

AMENDMENT TO FY 2023 CAPITAL IMPROVEMENT REQUESTS FOR THE MARCUS WELCOME CENTER ADDITION – WSU

Wichita State University received approval to amend its FY 2023 Capital Improvement Plan to show the amended project budget for the Marcus Welcome Center Addition, which increased from \$3.4 million to \$4.0 million. The project will be funded with a combination of private gifts and university funds.

AMENDMENT TO MEMORANDUM OF AGREEMENT WITH BETWEEN PITTSBURG STATE UNIVERSITY (PSU) AND THE PSU CHAPTER OF THE KANSAS NATIONAL EDUCATION ASSOCIATION, REPRESENTING FACULTY – PSU

Amendments to the Memorandum of Agreement between Pittsburg State University and the PSU chapter of the Kansas National Education Association (KNEA) for FY 2022 were approved. The amendments include changes to the Salaries and Duration articles, and to a number of other sections including performance appraisals, student evaluations, and the meet and confer process. The Board Chair was authorized to execute the amended Agreement on behalf of the Board.

Retirement PlanRECOMMENDED FORMULA FOR DEDUCTING AUTHORIZED EXPENSES FROM REVENUE ACCOUNTS AND DISTRIBUTING EXCESS TO RETIREMENT PLAN PARTICIPANTS AND APPROVE FY 2021 EXPENSES

The Retirement Plan Committee recommendations to allocate expenses between TIAA and Voya pro rata based on the number of active Mandatory and Voluntary Plan participants and to distribute the remaining revenue account balance pro rata based on the participant's account balances in the Mandatory and Voluntary Plans were approved. The FY 2021 Plan expenses were also approved.

AMEND THE RETIREMENT PLAN COMMITTEE CHARTER TO DELEGATE RESPONSIBILITY FOR REVIEWING REASONABLENESS OF PLAN EXPENSES

The proposed amendments to the Retirement Plan Committee Charter were approved. The amendments delegate to the Retirement Plan Committee the fiduciary duty to review that all services provided to the Plans are necessary and that the cost of those services is reasonable. The additional responsibility will be added to the section of the Charter titled "Mission Statement and Principal Functions," and will state the following:

"Specifically, the Committee shall be responsible for the following:

- Ensure that proper due diligence is conducted in the selection of investment managers and/or investment funds.
- Monitor and evaluate performance results achieved by the investment managers.
- Establish effective communication procedures between investment managers, investment funds, external parties (such as consultants), Plan participants and campus administrators and the Committee.
- Develop and periodically review investment policies and procedures.
- Provide ongoing communications with the Board.
- Conduct periodic Committee meetings.
- Retain independent outside experts, as needed, to assist in the development and monitoring of the overall investment program.
- Administer and carry out the provisions of the plans.
- Delegate appropriate individuals and engage third parties to carry out plan provisions where appropriate.
- Approve and adopt plan documents and material amendments and modifications (subject to any further approval requirements of the Board).
- Approve amendments and interpretations of plan provisions other than those indicated above.
- Address questions concerning the eligibility, provisions, and features of the plans, including elections, contributions and benefits.

- Ensure required notices and information are distributed to participants.
- Establish procedures for enrollment, payroll deductions, distributions, and rollovers under the plan.
- Review at least annually that all services provided to the plans are necessary and that the cost of those services is reasonable.
- Such other duties and responsibilities as may be assigned to the Committee, from time to time, by the Board, or as designated in plan documents and/or investment policy statement.”

Technical Education Authority

NEW PROGRAM PROPOSALS FROM BARTON COMMUNITY COLLEGE, CLOUD COUNTY COMMUNITY COLLEGE, COLBY COMMUNITY COLLEGE AND WASHBURN INSTITUTE OF TECHNOLOGY

Barton Community College (BCC) received approval to offer a Technical Certificate A (16 credit hours) in Plumbing (46.0503). The College received approval in 2015 to offer a Plumbing program at correctional facilities but the program was discontinued because of contract changes with the Kansas Department of Corrections. BCC plans to begin offering the program at its Great Bend campus in the spring of 2022. The program costs \$142,617 to deliver, which is funded with student tuition and fees, state aid, and local mil levy.

Cloud County Community College received approval to offer a Technical Certificate A (18 credit hours) in Welding (48.0508). The program will be housed at Junction City High School and will begin in the fall of 2021. The initial cost of the program is estimated at \$9,000 (salaries), which will be funded through the College's adjunct budget.

Colby Community College received approval to offer a Technical Certificate A (16 credit hours) and a Technical Certificate B (32 credit hours) in Welding (48.0508). The College is partnering with the Norton Correctional Facility to offer the program, which is scheduled to begin the fall of 2021. The estimated cost of the program is \$81,895, which will be funded with institutional funds. Equipment, tools/supplies, and instructional supplies/materials will be covered by the Kansas Department of Corrections.

Washburn Institute of Technology received approval to offer a Technical Certificate A (28 credit hours) in Sterile Processing Technology (51.1012). The program will begin in the summer of 2022. The estimated cost of the program is \$114,540, which will be funded with student tuition and fees and state aid.

Washburn Institute of Technology received approval to offer a Technical Certificate B (30 credit hours) in Plumbing Technology (46.0503). Washburn Institute of Technology currently offers plumbing courses through the Climate and Energy Control program offered at the Kansas Juvenile Correctional Complex (KJCC) and is expanding its program offerings due to increased demand for



plumbers. The program will begin being offered in the fall of 2022 and the estimated cost is \$126,020. The program will be initially launched at KJCC and funded through institutional dollars, Maintenance of Effort, KJCC funds, Perkins funds, and business and industry donations.

EXCEL IN CTE FEES FOR BARTON COMMUNITY COLLEGE, CLOUD COUNTY COMMUNITY COLLEGE AND WASHBURN INSTITUTE OF TECHNOLOGY

The Excel in Career Technical Education fees for the below programs were approved:

- Barton Community College: Plumbing Technology for a total of \$471 for tools, credential testing, and personal protective equipment;
- Cloud County Community College: Welding Technology for a total of \$1,176.36 for personal protective equipment, textbooks, and certification testing;
- Washburn Institute of Technology: Sterile Processing Technology for a total of \$325 for textbooks and credential testing; and
- Washburn Institute of Technology: Plumbing Technology for a total of \$892 for tools, personal protective equipment, credentials exams and testing.

PROMISE ACT PROGRAMS FOR BARTON COMMUNITY COLLEGE, BUTLER COMMUNITY COLLEGE, CLOUD COUNTY COMMUNITY COLLEGE, COLBY COMMUNITY COLLEGE AND WASHBURN INSTITUTE OF TECHNOLOGY

The below programs were approved to become Promise Eligible programs:

- Barton Community College: Plumbing Technology, which falls under the Advanced Manufacturing and Building Trades category specified in legislation;
- Butler Community College: Exercise Science, which falls under the Mental and Physical Healthcare category specified in legislation;
- Butler Community College: Sports Management, which falls under the Mental and Physical Healthcare category specified in legislation;
- Cloud County Community College: Welding Technology, which falls under the Advanced Manufacturing and Building Trades category specified in legislation;
- Colby Community College: Welding Technology, which falls under the Advanced Manufacturing and Building Trades category specified in legislation;
- Washburn Institute of Technology: Sterile Processing Technology, which falls under the Mental and Physical Healthcare category specified in legislation; and
- Washburn Institute of Technology: Plumbing Technology, which falls under the Advanced Manufacturing and Building Trades category specified in legislation.

Other Matters

UPDATED RESOLUTION TRANSFERRING BOARD'S AUTHORITY TO EXERCISE MANAGEMENT CONTROL OVER SECURITY OF CERTAIN KANSAS STATE UNIVERSITY RELATED CLASSIFIED INFORMATION TO A SECURITY EXECUTIVE COMMITTEE – KSU

The updated Resolution transferring the Board's authority to exercise management control over certain classified information to a Security Executive Committee at Kansas State University was approved. The Resolution was updated to add the University's new Vice President for Research, Dr. David Rosowsky.

(Resolution filed with Official Minutes)

**CONSIDERATION OF DISCUSSION AGENDA**

*Board Goal*

**REVIEW OF STATE UNIVERSITY STUDENT HEALTH CARE CENTERS**

President Flanders stated that at the September 2021 Board meeting, the Board adopted a goal to study best practices for universities' student health centers. During the September meeting, the Board directed President Flanders and the university CEOs to work with Dr. Debbie Haynes to develop a scope of work and timeline for the proposed task force to be presented at the November meeting. Since the September meeting, President Flanders has worked with Dr. Haynes and Regent Hutton on a scope and timeline for the taskforce and collected feedback from the universities. The proposed scope of work includes the following tasks: 1) perform a high-level assessment of the six university student health centers' ability to collect student health insurance reimbursement as compared to industry standards, and 2) perform a high-level assessment of existing management controls in place at each center to ensure effective safety, security and oversight of providers, center staff, and clinical information and services. President Flanders stated that at the September meeting, Regent Hutton recommended appointing the individuals listed below to the taskforce along with a university representative chosen by the six state universities. The universities decided to nominate one representative from a regional university – Rita Girth, Operations Director of the Bryant Student Health Center at Pittsburg State University, and one representative from a research university – Dr. Thomas Lane, Vice President for Student Life at Kansas State University, to serve on the taskforce. President Flanders noted that the taskforce is ready to begin its work, if approved, and the Board will receive progress reports throughout the year with the final report presented at the June 2022 meeting.

- Dr. Debbie Haynes – Chair
- Mark Finucane
- Lauren Lucht
- Russell Rein
- Brian White
- Steve Kelly
- Bob Copple
- A university representative chosen by the six state universities

Regent Winter moved to approve the Taskforce membership including the two representatives from the universities, the scope of work, and the timeline. Regent Schmidt stated he would like to amend the scope to address some of the comments in the feedback from the universities. He recommended the following language be approved as the scope of work: 1) Perform a high-level assessment of the six university health systems' ability to collect student health insurance reimbursement as compared to industry standards; and 2) Perform a high-level assessment and analysis of the six university student health systems that may provide recommendations to the Regents and institutions for keeping overall student services efficient and safe while also taking into consideration the unique situations encountered by students and student health systems, aligning analysis with standards that exist for higher education. Regent Winter amended his motion to incorporate the amended scope language. Regent Schmidt seconded, and the motion carried.

### *Fiscal Affairs and Audit*

#### FY 2023 HOUSING AND FOOD SERVICE RATE ADJUSTMENT PROPOSALS SUBMITTED BY STATE UNIVERSITIES (FIRST READ)

Elaine Frisbie, Vice President for Finance and Administration, presented the first read of the FY 2023 Housing and Food Service Rate Adjustment proposals for the state universities. Regent Rolph and Regent Hutton expressed their concerns with rising inflation and its impact on the cost of food. Regent Hutton noted that the Fiscal Affairs and Audit Standing Committee asked each university to present a plan to replenish the financial reserves of these auxiliary enterprises. The Board will act on the proposals at the December meeting.

(Proposals filed with Official Minutes)

#### AMEND BOARD POLICY RELATED TO PAYMENT OF TUITION AND FEES

Vice President Frisbie stated that at the beginning of the pandemic the Board suspended a portion of its Tuition and Fee policy that stated "No student shall be permitted to enroll for any semester if there are outstanding delinquencies from prior semesters, . . . [and International] students may receive tuition and fees extension privileges until not later than November 10 of the first semester or April 10 of the second semester, pursuant to written agreement with the institution." The universities had success enrolling and working with students who had outstanding balances and request that the policy be amended to allow the universities to continue to have this flexibility moving forward. Regent Hutton noted the Fiscal Affairs and Audit Standing Committee fully supports amending the policy. Regent Rolph moved to approve and Regent Hutton seconded. The motion carried. The following amendments were adopted:

### **Chapter II: Governance – State Universities**

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**D FISCAL MANAGEMENT AND BUSINESS ADMINISTRATION** (see Chapter III., Section B. for additional fiscal management policies applicable to state universities)

1 TUITION AND FEES

The Board shall fix tuition, fees required of every student as a condition of enrollment, student housing fees, building construction fees, and changes in academic fees. The Board delegates to the chief executive officer of each institution the authority to establish user and administrative fees where the increase does not generate an amount in excess of \$250,000 annually. All such tuition and fees are to be incorporated in the Comprehensive Fee Schedule, which will be received annually by the Board.

...

d Payment and Fees

- i All students are required to pay fees as published in the institution's comprehensive fee schedule. ~~No student shall be permitted to enroll for any semester if there are outstanding delinquencies from prior semesters.~~
- ii Short-term extensions of the fee payment due date may be granted for sponsored international students experiencing international monetary exchange difficulties, students certified to receive funds through the institution's Office of Student Financial Aid, and for other extenuating circumstances at the institution's discretion. ~~These students may receive tuition and fees extension privileges until not later than November 10 of the first semester or April 10 of the second semester, pursuant to written agreement with the institution. Each university shall establish procedures to collect outstanding obligations owed by students and former students. Each university shall maintain a system to record all delinquent financial obligations owed to that university by students and former students. A university may take any or all of the following actions for delinquent student accounts:~~
  - i. Deny or cancel registration;
  - ii. Withhold refunds (to the extent permitted by law) and the provision of services, grade reports, transcripts, diplomas, and graduation;
  - iii. Terminate agreements for student or family housing and/or take other action when financial obligations relate to housing;
  - iv. Use outside collection agencies as authorized in K.S.A. 76-745, report to credit bureaus, and assess related fees;
  - v. Follow K.S.A. 75-3782a, et seq., in requesting the Director of Accounts and Reports write-off of uncollectible accounts; and
  - vi. Other measures as permitted by law.

e ~~Collection of Overdue Accounts~~

~~The state universities are authorized to use commercial collection agencies selected pursuant to the process outlined in K.S.A. 76-745 to assist in collection of overdue student loan accounts, student housing accounts, and other appropriate accounts.~~

f ~~Write-Off of Uncollectible Accounts Receivable~~

~~The chief executive officer of each state university shall request that the Director of Accounts and Reports write off uncollectible accounts receivable pursuant to K.S.A. 75-3728a, et seq., as amended.~~

AMENDMENT TO FY 2023 CAPITAL IMPROVEMENT REQUEST AND PROGRAM STATEMENT FOR WEST MEMORIAL STADIUM – KSU

Chad Bristow, Director of Facilities, presented Kansas State University's request to amend its FY 2023 Capital Improvement Plan to add the West Memorial Stadium band hall project. The estimated cost of the project is \$4.5 million, which will be funded from private gifts. Regent Ice moved to approve the request and the Program Statement for the project. Regent Winter seconded, and the motion carried. Regent Hutton had a conflict with this item and was not present for the discussion or vote.

AMENDMENTS TO FY 2023 CAPITAL IMPROVEMENT PLAN TO INCREASE THE PROJECT BUDGET FOR THE CONVERGENCE SCIENCES 2 FACILITY FOR DIGITAL TRANSFORMATION – WSU

Director Bristow presented Wichita State University's request to amend its FY 2023 Capital Improvement Plan to increase the project budget for the Convergence Sciences 2 Facility for Digital Transformation (housing the National Institute for Research and Digital Transformation) from \$15 million to \$16.5 million. Director Bristow noted the increase is due to current market conditions in the construction industry, which has seen increases in construction costs. The project will be funded from a combination of revenue bonds and restricted fees. He noted the increase in the project budget will be funded with restricted fees. Regent Rolph moved to approve, and Regent Ice seconded. The motion carried. Regent Hutton had a conflict with this item and was not present for the discussion or vote.

Academic Affairs

AMEND BOARD POLICY DEFINITION OF A BACCALAUREATE DEGREE

Daniel Archer, Vice President for Academic Affairs, stated that at the retreat, the Board received an update on the pilot program that authorized programmatic exceptions to the minimum 60 semester credit hour requirement for the institution awarding the baccalaureate degree for certain transfer agreements between the University of Kansas Edwards Campus and Johnson County Community College (JCCC). This pilot has yielded positive results since it was implemented in 2019, and the Board discussed expanding the program to all the universities, which would require the policy to be amended. Vice President Archer noted the proposed policy amendments includes a reporting requirement to the Board Academic Affairs Standing Committee for any university that chooses to enter into a programmatic exception transfer agreement. Regent Schmidt stated that he likes that the policy allows for flexibility and noted the exception will not work for all programs. Regent Kiblinger stated that this is a permissive policy and moved to approve the amendments. Regent Schmidt seconded, and the motion carried. The following amendments were adopted:

**CHAPTER III: COORDINATION – STATE UNIVERSITIES, COMMUNITY COLLEGES, TECHNICAL COLLEGES, WASHBURN UNIVERSITY AND/OR THE WASHBURN INSTITUTE OF TECHNOLOGY**

**A ACADEMIC AFFAIRS** (See Chapter II. Section A. for additional academic affairs policies applicable to ..... state universities)

...

**9 DEGREES**

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**b Standards**

In order to receive and hold authorization to offer a given degree, an institution must remain open to inspection at all times and continuously satisfy each of the following standard requirements as written, except where the Office approves modification in writing.

...

**ii Curriculum**

The curriculum shall have a structure that reflects acceptance of responsibility by the faculty at the degree-granting institution for what is to be learned overall, as well as in each course, and thus for the logical sequence and increasing difficulty of subjects and instructional levels. The curriculum shall reflect the distinction between the liberal disciplines and the occupations and professions, the nature of specialization in study and work, the contribution of liberal arts and sciences, and the relationship between teaching and faculty creativity. A graduate curriculum shall reflect a concept of the graduate school as a group of scholars, the faculty members of which have had extensive collegiate teaching experience and are engaged in the advancement of knowledge. Periods of study and other fundamental requirements for the five levels of academic degree are as follow:

...

(2) “Baccalaureate degree” means a degree:

(a) Requiring the equivalent of at least four academic years of full-time postsecondary study consisting of courses totaling a minimum of 120 semester credit hours in the liberal arts, sciences or professional fields.

(b) Incorporating in its program design the equivalent of two or more academic years of full-time study consisting of courses totaling a minimum of 60 semester credit hours from institutions that have a majority of degree conferrals at or above the baccalaureate level, and a minimum of 45 semester credit hours in upper division courses. Institutions are not permitted to make programmatic exceptions, except as authorized in paragraph 2(ed). Institutions may make a limited number of exceptions from the 60-hour requirement for individual students, up to a maximum of 6 hours.

(c) The degree shall require distinct specialization, i.e., a “major,” which should entail approximately the equivalent of one academic year of work

in the main subject plus one academic year in related subjects, or two academic years in closely related subjects within a liberal arts interdisciplinary program.

~~(d) The equivalent of the first two academic years of full-time study (associate degree programs ordinarily require 64, but in some cases may extend up to 72, semester credit hours) may be from institutions that have a majority of degree conferrals below the baccalaureate level.~~

~~(e) The University of Kansas Edwards campus Universities may have transfer agreements with institutions Johnson County Community College that make programmatic exceptions to the requirement that a minimum of 60 semester credit hours be from institutions that have a majority of degree conferrals at or above the baccalaureate level. The University of Kansas and Johnson County Community College shall report annually to the Board Academic Affairs Standing Committee on the number and type of programs subject to transfer agreements entered into pursuant to this exception, the number of Johnson County Community College students transferring in more than 60 hours into such programs, and their success. Each university shall report to the Board of Academic Affairs Standing Committee annually or as necessary:~~

~~(i) the name of each degree and major in which programmatic exceptions apply;~~

~~(ii) the name of each institutional partner in which programmatic exceptions apply; and~~

~~(iii) the number of students who utilized programmatic exceptions.~~

#### CONDITIONAL CERTIFICATE OF APPROVAL FOR NATIONAL AMERICAN UNIVERSITY

Vice President Archer stated that the Private and Out-of-State Postsecondary Educational Institution Act (Act) requires covered private and out-of-state postsecondary educational institutions to obtain a certificate of approval from the Kansas Board of Regents (Board) to lawfully operate in Kansas. To qualify for a certificate of approval, an institution subject to the Act must meet the standards established by the Act and the regulations adopted pursuant to the Act. To ensure that institutions are financially responsible and capable of fulfilling commitments, the law requires the institution meet at least one of the following requirements for the most recent fiscal calendar year or for the two most recent fiscal or calendar years combined:

- A. Demonstrate a minimum ratio of current assets to current liabilities of at least 1:1. This asset ratio shall be calculated by adding the cash and cash equivalents to the current accounts receivable and dividing the sum by the total current liabilities;
- B. Exhibit a positive net worth in which the total assets exceed the total liabilities; or
- C. Demonstrate a profit earned.

Dr. Archer stated that National American University (NAU) is a private institution that was first awarded a Certificate of Approval by the Board to operate in Kansas in 2006. NAU currently

operates in Kansas only for online programs and is serving 31 Kansas students. On May 21, 2021, NAU submitted an application for renewal of its certificate of approval and the financial statements provided did not meet the minimum requirements outlined in K.A.R. 88-28-2. NAU's failure to meet the minimum financial requirements creates a concern that the institution could close, possibly abruptly, and not meet their commitments to enrolled students. It was noted that multiple entities share these concerns regarding NAU's financial stability. Dr. Archer stated the Board has two options under the Act – 1) NAU can be issued a certificate of approval with conditions that would protect current students, or 2) NAU's application for renewal can be denied. Vice President Archer stated that Board staff recommends issuing a certificate of approval with the following conditions attached:

- Prohibit NAU from any new enrollments of Kansas residents until NAU meets the minimum financial requirements.
- Require a teach-out plan and listing of currently enrolled Kansas students, the program in which each student is enrolled, and each student's anticipated graduation date. NAU notified Board staff that it has entered into a formal written teach-out agreement with another online university to provide for the orderly transfer and teach-out of students, so that they may complete their programs of study, in the event NAU should cease operations. Board staff recommends requiring NAU to provide the formal written agreement to the Board office and disclose any modifications to the agreement.
- Require additional bonding in an amount reasonable to protect Kansas students in the event of a closure. The bond amount shall be equal to the amount of tuition held for Kansas students. The bond shall be renewed annually and the amount updated based on current Kansas student enrollments.
- Require NAU to submit a financial improvement plan and quarterly financial statements.

The Board discussed the additional bonding that NAU will need to cover the amount of tuition held for the 31 students who are currently enrolled. Regent Schmidt does not believe the Board has enough information to make a decision on the certificate. He wants more information on the required bonding amount and whether NAU has the capacity to meet the bonding amount. He also would like information on the 31 students to understand their situations, so they are not harmed in this process. Regent Hutton has concerns about NAU securing a bond and would rather the institution get an irrevocable letter of credit, which are more accessible. He would also add an administrative cost for Board staff time. Regent Kiblinger noted that Board staff will receive most of the information that Regent Schmidt is concerned with after the certificate is approved and stated that the Board needs to act on this now in order to prevent NAU from enrolling new students for the next semester, which starts in December. Regent Rolph stated that the Board Academic Affairs Standing Committee discussed this topic, and he believes the staff recommendation is the best option. He moved to approve the staff recommendation, and Regent Kiblinger seconded. Regent Winter stated that he researched NAU and found three documents that clearly record NAU's financial troubles. He asked that the three documents be attached to the Board minutes 1) NAU's 10-K Form, 2) NAU's Annual Holdings Report, and 3) History of Stock Performance. Regent Ice asked to amend the motion to allow staff the flexibility to determine the type of



financial instrument that NAU can use for security. Regent Rolph accepted the amendment to his motion, which was seconded by Regent Kiblinger. The motion carried. Regent Schmidt opposed the motion.

(Documents filed with Official Minutes)

Other Matters

INFORMATION ON THE IMPACT OF THE FEDERAL CONTRACTORS COVID-19 VACCINATION MANDATE – STATE UNIVERSITIES

General Counsel Julene Miller provided a report on the impact of President Biden’s vaccination mandate for employees of federal contractors and subcontractors. On September 9, 2021, President Biden issued an Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors. The Safer Workforce Task Force issued its Guidance on implementing the Order on September 24, which set December 8, 2021 as the deadline for achieving full vaccination of employees. General Counsel Miller noted the Order for Federal Contractors impacts the three research universities (University of Kansas, Kansas State University, and Wichita State University), and within days of the Guidance being issued each of them began receiving demands from various federal agencies to include the new clause requiring compliance with the vaccination, masking and distancing safety protocols in their contracts with those federal agencies. General Counsel Miller stated that the Board Office and the state universities discussed the implications of the Order and reached out to state and federal officials to inform them of the impact the Order and Guidance will have on the state universities with covered contracts. On October 25, President Flanders presented testimony to the Kansas Legislature’s Special Committee on Government Overreach on the impact of the federal contractor vaccine mandate. General Counsel Miller stated that Committee members were primarily interested in employees’ ability to seek exemptions from vaccination or masking and noted that all three impacted universities have exemption request forms that employees can use and that these forms have been updated to address the concerns raised at the Committee hearing.

General Counsel Miller reported that the three research universities had to begin implementing the federal vaccine mandate on their campuses in October in order to meet the initial federally imposed deadlines. Currently, the regional universities (Emporia State University, Fort Hays State University, and Pittsburg State University) have no contracts with the federal government that are covered under the mandate; however, the guidance continues to change, and it is possible for other federal agencies to determine that additional contracts and contract-like instruments should incorporate the clause. General Counsel Miller also noted that just last week the deadline for achieving full vaccination of covered employees was changed to January 18, 2022.

The Board and the university CEOs discussed the impact of the vaccine mandate. It was noted that the universities would lose millions of dollars in federal funding and thousands of jobs if they do not comply with the mandate. Employees who do not wish to be vaccinated do have the option of applying for an exemption. Regent Rolph reiterated that this is a federal mandate that the universities need to comply with in order to keep federal contracts that are important for State as a whole.

BREAK

Chair Harrison-Lee called for a break at 2:30 p.m. and resumed the meeting at 2:44 p.m.

NON-BUDGETARY LEGISLATIVE PROPOSALS (FIRST READ)

Matt Casey, Director of Government Relations, presented the first read of the non-budgetary legislative proposals, which are listed below.

- Amendments to the Motorcycle Safety Fund and Truck Driver Training Fund Statutes
- Legislation Authorizing Voluntary Affiliations between State Universities and Community and Technical Colleges
- Increased 529 Investment Options
- Promise Act Trailer Bill
- Emporia State University, Sale of Property in the City of Emporia, Lyon County, Kansas
- Technical Edit to add High School Equivalency
- Kansas State University's Request to Sell Property in Riley County
- Kansas State University's Request to Sell Property in Cherokee County
- Kansas State University's Request to Sell Property in Douglas County, Nebraska
- Pittsburg State University Request to Sell Property
- University of Kansas Request to Exchange Property in Douglas and Wyandotte County
- Selling Gifted Property – Amending the State Surplus Property Act

Regent Hutton asked staff to look at the funds associated with the Board's facility renewal initiative to see if any statutory restrictions need to be amended. Regent Winter stated that at the retreat, the Board discussed seeking a statutory amendment that would allow universities to keep proceeds resulting from the sale of universities' real property and wanted to know if the Board should consider pursuing this change. Regent Hutton agrees that the change would be beneficial to the universities but believes Board staff should have discussions with legislative leaders on the proposal before making it an official request of the Board. President Flanders and Director Casey will get legislative feedback on this proposal.

NAME A BUILDING – KSU

President Myers presented Kansas State University's request to name the new Volleyball Arena that will be constructed in the Kansas State University Athletics Complex in honor of Ward and Brenda Morgan and their family. Regent Rolph moved to approve, and Regent Ice seconded. The motion carried. The arena will be named the Morgan Family Arena.

PITTSBURG STATE UNIVERSITY PRESIDENTIAL SEARCH COMMITTEE MEMBERS AND COMMITTEE CHARGE

Chair Harrison-Lee stated that at the September meeting, the Board appointed Rick Webb to serve as the Pittsburg State University Presidential Search Committee Chair. Mr. Webb is the Executive Chairman of Watco LLC. and earned a Bachelor of Science degree in Physics from Pittsburg State University. She thanked him for taking on the responsibility of leading the Committee and then she presented the list of other recommended Committee members and the proposed Committee charge. It was noted that the Committee membership includes a variety of individuals who represent the different groups on campus as well as members of the Pittsburg community and

University alumni. Regent Kiblinger highlighted language in the charge that directs the Search Committee to recommend to the Board at its December 2021 meeting a “Statement of Leadership Characteristics” or “Presidential Profile,” outlining the criteria for the position of President. The Board wants the Committee to consider including leadership attributes that demonstrate strong skills in attracting and retaining students, leadership and decision making, innovation, fundraising and financial stewardship, economic and job growth collaborations, consensus building, change management, relationship building, talent development, and execution of a strategic plan. Regent Kiblinger moved to approve the PSU Presidential Search Committee membership and Committee charge. Regent Ice seconded. President Flanders requested authority to add a new member to the Committee if a current member is unable to continue serving. Regent Kiblinger amended her motion to include authorizing President Flanders to add a Committee member if a named member is unable to serve. Regent Ice seconded the amended motion. Regent Winter requested that President Flanders keep the Board informed if he needs to add a new member. The motion carried.

(PSU Presidential Search Committee Members and Charge filed with Official Minutes)

#### EMPORIA STATE UNIVERSITY PRESIDENTIAL SEARCH PROCESS AND INTERIM PRESIDENT

On behalf of the Board, Chair Harrison-Lee thanked Provost Arasimowicz for his work as Acting President of Emporia State University. She then recommended appointing Ken Hush as Interim President of ESU. Mr. Hush is a graduate of Emporia State and was inducted into the ESU Athletics Hall of Honor in 1995. He previously served as chairman of the ESU Foundation Board of Trustees and on the Wichita State University Board of Trustees. Regent Kiblinger moved to appoint Ken Hush as Interim President of Emporia State and authorize the Chair and the Board President and CEO to negotiate the compensation package and authorize the Chair to sign the letter of appointment for the Interim President. She also moved that the Emporia State University Presidential Search be a confidential, committee-led search, and that the Board hire AGB Search as the search consultant. Regent Schmidt asked for clarification on the process for selecting an interim president. President Flanders stated that the Board does not have a formal process but traditionally the Board Chair and Vice Chair present a recommendation to the Board for consideration. He also noted that he has received a lot of feedback from the Emporia community on the upcoming search. Following discussion, the motion carried.

#### ADJOURNMENT

The Chair adjourned the meeting at 3:09 p.m.

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Blake Flanders, President and CEO

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Cheryl Harrison-Lee, Chair