

**MINNESOTA STATE COLLEGES AND UNIVERSITIES  
BOARD OF TRUSTEES  
EMERGENCY MEETING MINUTES  
JUNE 8, 2011  
WELLS FARGO PLACE  
ST. PAUL, MN**

**Trustees Present:** Chair Scott Thiss, Duane Benson, Cheryl Dickson, Jacob Englund, Christopher Frederick, Clarence Hightower, Philip Krinkie, Alfredo Oliveira, David Paskach, Thomas Renier, Christine Rice, Dan McElroy, Louise Sundin, James Van Houten and Michael Vekich

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**1. Call to Order**

Pursuant to Minnesota Statutes section 13D.04, subd. 3, Chair Scott Thiss called the emergency meeting of the Board of Trustees to order at 10:50 AM. Participating by conference call were Trustees Alfredo Oliveira and David Paskach.

**2. Consider the System Implications of a Possible Shutdown of State Government and Any Action Needed by the Board to Continue Operating After June 30 or to Prepare for a Possible Shutdown**

Chancellor James McCormick explained that negotiations continue between the Legislature and the governor to reach agreement on a state budget for Fiscal Year 2012. If they do not reach an agreement, there will be a state government shutdown on July 1, 2011. A higher education appropriations bill was not adopted. The Minnesota State Colleges and Universities system is weighing all options to determine whether it will be able to continue its operations after June 30, 2011.

Vice Chancellor-Chief Financial Officer Laura King referred to a report that was distributed entitled "System Implications of a Possible Shutdown of State Government." She explained that conversations have occurred with officials at Minnesota Management and Budget (MMB) and the Governor's Office for an agreement under which the system could access its cash through MMB's payroll and state payment system. Vice Chancellor King continued that while the system is waiting for an answer from MMB and the Governor's Office, the notification of layoffs for classified employees is Friday, June 10, 2011. The system's leadership must begin contingency planning.

The goals for contingency planning are to continue instruction and services uninterrupted to students first as summer session is already underway and students and campuses are planning for fall enrollments; allow time for the governor to respond to the system's request; respect the collective bargaining requests to the extent possible; and protect the long-term financial and organizational health of the system. These considerations lead to the Board action today. After today, layoff notices will be sent to approximately 6,000 classified system employees. Substantial time will need to be spent on shutdown planning.

Vice Chancellor King summarized that the Finance and Facilities Committee is meeting on June 15 to review the proposed FY2012 college and university operating budget and the Board will be asked to adopt a FY2012 budget on June 22. If a budget agreement is reached, or if MMB allows the system to access its funds in the event that there is no budget resolution, then layoff notices will be rescinded and the system will cease contingency planning.

General Counsel Gail Olson explained that the system is authorized to carry over its appropriations from one year into the next and from one biennium to the next. By law, the funds are held in the state treasury. Because of existing account balances and new tuition receipts, the system is financially able to continue operating until a higher education bill is adopted, or through the summer and into fall term. MMB processes the system's payroll and other receipts. The system is waiting to hear from MMB on whether the system can access its funds and if MMB will process the system's payroll and other disbursements. General Counsel Olson continued that the system has statutory authority to declare a financial emergency which would allow immediate lay-offs to faculty and classified staff. One of the provisions in that statute is that the Board "should strive to provide uninterrupted service to students." The Board's goal is to provide uninterrupted service to students. The Chancellor and presidents have the authority to send any layoff notices that become necessary. The action before the Board supports the goal of continued operations and recognizes that the Chancellor will take further steps and prepare for shutdown.

Richard Davenport, president, Minnesota State University, Mankato, spoke on behalf of all of the presidents and campuses around the state. Currently, 67,000 students are enrolled in summer school, and 100,000 students are in the process of registering for the fall semester. Presidents and faculty are committed to serving students. Students will wonder if doors will be open and if their financial aid will be processed. There is also a risk to losing students to neighboring states and those students will probably not come back across the border. The disruption would cause a serious lag in the fall before the campuses get back on track to support students.

Trustee Dan McElroy noted that the Finance and Facilities Committee is meeting on June 15 to hear about the operating budget and FY2012-2017 capital budget. The reason to consider the capital budget request is because MMB has not changed its submission due dates for the 2012 capital process. He added that there would be a four to six year impact on recovering from a shutdown, but the real impact would be on students and parents.

Responding to a question about the difference between this shutdown and the one in 2005, General Counsel Olson explained that budget bills, including higher education, had been passed in 2005. She added that in 2001, an agreement was reached, and a shutdown was averted. There was a subsequent challenge in 2005 to the critical services order that was issued by a district court judge. The Court of Appeals determined the challenge was moot, but did acknowledge the merits of the questions raised in the challenge concerning the merits of the critical services determination process. The system's current request is very different from a critical services analysis because of its continuing appropriation and authority.

Trustee James Van Houten inquired if there would be a change to the labor contracts requirements for advance notice if the state refuses to finance the system. Vice Chancellor King replied that it is the heart of the issue. It is a legal question, and the system is trying hard to respect the notice period, but General Counsel Olson added that the notice requirements would be affected if a financial emergency is declared.

Trustee Duane Benson posed several questions about the system's autonomy. Can the system break its contract with 67,000 students? The bigger issue is whether or not the system has autonomy to run its own affairs. The fundamental decision point is who makes the decisions – the Board or the legislature? General Counsel explained that these arguments were posited to the administration, noting that the legislature has adopted statutory language in support of continued funding, but the reality is that the state processes payroll and other payments.

Responding to a query on how long the available tuition and reserves will be used in the event of a shutdown, Vice Chancellor King noted that it depends on how much damage there is in enrollment, the length of the shutdown, the final higher education bill and the Board's risk tolerance. There are funds to finish summer school and fall term, but beyond that would require a further conversation with the Board.

*Trustee Van Houten moved the Board's adoption of the following motion:*

*The Board of Trustees supports the goal of continued operation of the Minnesota State Colleges and Universities system without interruption of instruction or services to students using available tuition, fees and reserve funds until a state budget agreement is reached. The Board further supports the pursuit of any administrative or other options deemed appropriate by the Chancellor to facilitate the continued operation of the system in Fiscal Year 2012 and prepare for a possible system shutdown.*

*Trustee McElroy seconded and the motion carried unanimously.*

Don Larsson, president, Inter Faculty Organization, addressed the Board of Trustees. He commented that although the IFO Executive Committee has not seen or discussed the motion, he supported the motion noting that uninterrupted services are vital to the students, faculty and the state.

Counsel Olson announced that a Web-based information site addressing questions on the pending shutdown would be activated shortly.

## **12. Adjournment**

Chair Thiss adjourned the meeting at 11:23 AM.

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Ingeborg K. Chapin  
Secretary to the Board