

**SPECIAL MEETING
VIDEOCONFERENCE
BOARD OF REGENTS
NEVADA SYSTEM OF HIGHER EDUCATION**

System Administration, Las Vegas
5550 West Flamingo Road, Suite C-1, Conference Room
System Administration, Reno
2601 Enterprise Road, Conference Room
Great Basin College, Elko
1500 College Parkway, Berg Hall Conference Room
8:00 a.m., Tuesday, May 12, 2009*

***NOTE:** *Due to the need of the Board of Regents to respond to the Nevada Legislature's closing of the NSHE 2009-11 budgets, and as posted in the public notice of the meeting, this special meeting of the Board convened on Tuesday, May 12, 2009, at 8:00 a.m., and recessed until 8:00 a.m. on Thursday, May 14, 2009, at the same locations as posted on the agenda.*

Members Present: Mr. Michael B. Wixom, Chair
Dr. Jason Geddes, Vice Chair
Mr. Mark Alden
Dr. Stavros S. Anthony
Mr. Robert Blakely
Mr. William G. Cobb
Mr. Cedric Crear
Mrs. Dorothy S. Gallagher
Mr. Ron Knecht
Mr. James Dean Leavitt
Mr. Kevin J. Page
Dr. Raymond D. Rawson
Dr. Jack Lund Schofield

Others Present: Chancellor James E. Rogers
Executive Vice Chancellor Daniel J. Klaich
Executive Vice Chancellor & CEO, HSS, Maurizio Trevisan
Vice Chancellor, Academic & Student Affairs, Jane Nichols
Vice Chancellor, Finance, Mike Reed
Chief Counsel Bart Patterson
Special Counsel Brooke Nielsen
President Michael D. Richards, CSN
President Stephen G. Wells, DRI
President Carl Diekhans, GBC
President Fred Maryanski, NSC
President Maria C. Sheehan, TMCC
President David B. Ashley, UNLV
President Milton D. Glick, UNR
President Carol A. Lucey, WNC
Chief Executive Officer of the Board Scott Wasserman

Also present were faculty senate chairs Dr. Sondra Cosgrove, CSN; Ms. Cindy Hyslop, GBC; Mr. Gregory Robinson, NSC; Mr. Jim Lowe, NSHE; Dr. John Filler, UNLV and Mr. Stephen Bale, TMCC. Student government leaders present included Dr. David Waterhouse, ASCSN President, CSN; Amsala Alemu-Johnson, NSSA President, NSC; Mr. Adam Cronis, CSUN President, UNLV; Ms. Jessica Lucero, GPSA President, UNLV; Mr. Eli Reilly, ASUN President, UNR; Ms. Brithany Thompson, GSA President, UNR and Mr. Andy Pozun, ASWN President, WNC.

Chair Wixom called the meeting to order at 8:00 a.m. on Tuesday, May 12, 2009, and recessed until 8:01 a.m. on Thursday, May 14, 2009, with all members present except Regents Crear, Knecht and Schofield.

Regent Page led the pledge of allegiance.

1. Information Only – Discussion of 2009-2011 NSHE Biennial Budget – (Agenda Item #1) -
The Board continued its discussion of the 2009-2011 NSHE Biennial Budget Request that was submitted to the Governor, including new developments from the 2009 legislative session and updates on the status of the federal stimulus package (*the American Recovery and Reinvestment Act of 2009*) and financial status of the state and the corresponding impact on budgets.

Chair Wixom thanked Chancellor Rogers, Executive Vice Chancellor Klaich and the presidents for their herculean efforts throughout the budget process. He also expressed his sincere appreciation to the legislative leadership that worked very hard for higher education and the state of Nevada.

Regent Knecht entered the meeting.

Chair Wixom related that this process began in January with a proposed system-wide budget reduction of 36%, and a 50% reduction to the universities. The reduction was finalized at 12.5% which was remarkable progress that demonstrated the thoughtful and deliberative manner in which those involved approached the issues. Although there may be a temptation to discuss how the process came to be, Chair Wixom stated that it would not be an appropriate discussion for this meeting. He indicated discussion would focus on where the System currently is and how the resulting issues would best be addressed.

On behalf of the Chancellor, Executive Vice Chancellor Klaich thanked the students and faculty, adding that their efforts significantly impacted the legislative process but warned that the process was not yet over.

Regent Schofield entered the meeting.

Executive Vice Chancellor Klaich indicated that his report would involve framing the issues of concern, how the System should move forward and the critical concepts of the budget (*Handouts are on file in the Board office*).

Regent Crear entered the meeting.

1. Information Only – Discussion of 2009-2011 NSHE Biennial Budget – (Agenda Item #1) – (Cont'd.)

Executive Vice Chancellor Klaich reported that last December, the Board discussed how it would build the budget in the context of unprecedented circumstances within the System. The System has always worked on the basis of a formula that has allocated dollars on a fundamental fairness to all its institutions, which has, over time, fundamentally worked well. However, the formula has never been dealt with in the circumstances faced in this biennium. In the context of a fixed and historically lower appropriation, it forced the Board to make very difficult choices. In December, the Board determined that using a three year weighted average for determining the enrollment driver did not work because it exaggerated trends. That change had been proposed by the presidents because they felt that, given the budget situation, it was presumptuous for them to be expected to know what enrollments would be. Executive Vice Chancellor Klaich also indicated in relation to NSC, as a new institution with a relatively small budget that has not yet been worked fully into the formula, the Board approved the transferring of one-time non-formula equipment money to reduce their costs. Both of those changes were respected and accepted by the legislature in their final actions. In addition, the legislature respected the Board's decision to continue the use of a formulaic approach to funding allocations even in this biennium. However, from the very beginning of the process, the legislature expressed concern for how that affected institutions on the outside of that formula. For instance, the legislature asked what would happen if an institution falls very far out of the overall cut. There was also much discussion of the historical underfunding of CSN that the Board had addressed through an enhancement request. There was a great deal of concern as to what would happen to that institution in a declining revenue model. The legislature dealt with both of those issues. For CSN, the legislature indicated they would build into the budget a portion of the equity funding approved by the Board. For the two universities that were the essential outliers on the overall cut, the legislature adjusted the formula.

Chair Wixom related that the CSN and the NSC adjustments were reflected on the "Allocation of Joint Subcommittee approved Cuts for NSHE (05-12-09)" chart under the "Other Adjustments" column. The adjustments for UNR and UNLV were reflected under the "Stoploss" column.

Executive Vice Chancellor Klaich related that when utilizing the formulaic approach to the funding allocations, it was important to keep in mind that an overall system cut will result in a different percentage cut (*fixed rate*) for each institution because the money follows the students and the institutions have grown at different rates (*refer to Allocation of Joint Subcommittee approved Cuts for NSHE (05-12-09) chart, "Percent Gen. Fund cut from FY09 Leg App + COLA" and "Revised Gen. Fund Cut" columns*).

Executive Vice Chancellor Klaich indicated that toward the closing of the legislative budget process, the legislature made it clear that their final budget for the System would be different from the Board's proposed budget. The legislature did not want institutions too far out of the norm of the regular cut (*refer to Allocation of Joint Subcommittee approved Cuts for NSHE (05-12-09) chart, "Stoploss" and "Other Gen. Fund Cut" columns*). The discussion centered upon the subjective principle of what is "too far" as it relates to the differences in percentages. He explained that adding to the difficulty with determining the relevant percentages was the legislative appropriation of \$677 million for FY09. When the

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legislature calculated all of the cuts, the cuts were based on that \$677 million. However, that is not how much the NSHE received, or how much the System spent. He explained that the legislature allocates 20% of the System's designated COLA to the Board of Examiners as 100% of every position is not filled for 365 days of the year. The System has to "prove up" the last 20% of the COLA. The System actually drew down 93.5% of its COLA which added \$4.5 million to the \$677 million. The System's position throughout these discussions has always been that the level of budget reduction needs to be calculated on the amount that the System actually has, not the \$677 million. The System did not win that discussion. The difference is approximately 6/10 of 1% which will result in the percentages reflected in the "Revised Gen. Fund Cut" column of the "Allocation of Joint Subcommittee approved Cuts for NSHE (05-12-09)" chart.

Chair Wixom related that the differential is the difference between the legislature's base number of \$677 million for the System and the System's actual base number of approximately \$681 million (*refer to Allocation of Joint Subcommittee approved Cuts for NSHE (05-12-09) chart, "FY 09 GF + COLA"*).

Executive Vice Chancellor Klaich thanked the System's finance staff and the institutions' business officers for their hard work. He related that the numerous scenarios and templates were all based on the \$681 million. Towards the end of the budget process, there was not the ability to switch and change all those scenarios to a base number of \$677 million. The System kept with the \$681 million and applied a master correction of .6% to all of the numbers.

Regent Alden felt it was not that confusing. He felt that what was not being said was that the NSHE has had one of the lowest administrative cost overheads because of its combined system. He felt that a thank you was owed to the people that run the System as well as to the legislators.

Executive Vice Chancellor Klaich related that he and Chancellor Rogers had been aiming for a 10% budget reduction. In addition to the outcome on the general fund appropriation side, the legislature suspended the Letter of Intent feeling that the students could bear a portion of the pain. However, the legislature wanted to keep that number as low as possible. The Board of Regents had already approved fee increases of 5% each year of the coming biennium. The legislature felt the System should not go higher than that. As a result, it was built into the closing assumptions that if the legislature grants the System 100% discretion to keep those increases on campus, that will bring the System closer to that goal of 10%.

Executive Vice Chancellor Klaich reported that other actions taken by the legislature included:

- Approval of the Board's request to transfer a portion of non-formula equipment dollars to NSC for this biennium only;
- Approval of a flat enrollment methodology in place of 3-year weighted average, again only for this biennium; and

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- The suspension of the Letter of Intent with respect to the allocation of fee increases for the upcoming biennium. Any additional increases will be built into the state supported operating budget with the campuses being given flexibility, subject to IFC approval, to utilize such funds in their complete discretion. This suspension does not apply to the fees already approved by the Board. In addition, the IFC is expected to express its sense as to the size of tuition increases which might be appropriate.

Executive Vice Chancellor Klaich related that the legislature made it clear that they saw the cracks and flaws in the budget process and expressed their interest in addressing a long term policy as well as addressing this short term crisis. The legislature recognized that the Letter of Intent does not support and engage an entrepreneurial spirit in the presidents of our institutions and they want to change that. They also want a policy that engages the presidents in discussions with faculty and student leadership to develop a fee policy that makes sense for each institution. In addition, they indicated a desire to look at the funding formula and to consider whether it is still fair.

Regent Leavitt asked what the likelihood of success was of the pending bill for an interim commission to consider the formula. Chancellor Rogers indicated that bill was probably going to be approved.

Regent Leavitt asked if the System was aware what the member composition of that interim commission would be. Executive Vice Chancellor Klaich expected that it would be of similar composition to the last time there was a legislatively appointed commission. That included both appointments by the Board as well as by the minority and majority speakers of both houses of the legislature, as well as business members of the community. Chancellor Rogers related that the potential composition has been discussed at length and the appropriate members will be involved. Regent Leavitt felt this particular legislation would be enormously helpful in the future.

Executive Vice Chancellor Klaich continued with his report of other action taken by the legislature:

- Concern was expressed regarding state funding for sports facilities and a letter of intent should be expected from the legislature requesting the System to investigate and report back regarding such funding.

Executive Vice Chancellor Klaich related that UNR had appealed for additional funding for Lawlor Events Center. However, he had discouraged that appeal at the closing of the budget hearings because, in his opinion, every dollar that went somewhere had to come from the classroom. Instead, he had suggested that a letter of intent be issued to determine if the state funding of the System's sports pavilions was fair and equitable, not only between the institutions, but given the use of those facilities as entertainment venues versus education venues.

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Chair Wixom, Vice Chair Geddes and Regent Gallagher felt that it would be appropriate for consideration that the potential letter of intent for sports facilities be referred to the Investment Committee.

Executive Vice Chancellor Klaich continued with his report of other action taken by the legislature:

- The exclusion of investment income in the budget was suspended for this biennium only. No impact would be felt from this action as there was not any income earned.

Executive Vice Chancellor Klaich related that the budget process begins with the System submitting a budget to the legislature for their consideration. During that review process, the legislature may or may not agree with the assumptions that the System has built into its budget. In a normal session, at the end of the process, appeals and adjustments are then made as new money is introduced. However, the stakes were much higher in this session as there was no new money although a limited number of important adjustments to the base budget were approved.

Executive Vice Chancellor Klaich related that the Executive Branch's recommendation had overstated UNLV's fee income by a significant amount. That created a concern as it is those last dollars added to the budget that are general fund dollars so if the fees are overstated the general fund dollars become smaller. The legislature was asked to reinstate those general fund dollars and they did. In addition, the Executive Branch's recommendations included a mistake in the UNR budget by approximately \$1.5 million per year. The legislature was asked to correct that error and they did. Finally, the legislature allowed the appropriation for the Paradise School lease to be retained by UNLV. This transaction had involved a swap of property that allowed UNLV to retain the approximately \$1.7 million in lease money. Chair Wixom added that particular transaction had previously been approved by the Board of Regents.

Executive Vice Chancellor highlighted that one of the other adjustments was the transfer of supervision and administration of the WICHE program from outside of the System to the NSHE. The budget will be separately maintained and is not expected to create additional expense to the System.

Executive Vice Chancellor Klaich asked the Board to discuss the raising of fees in clear terms so that the students will know what the fees will be for the fall of 2009. As of last week, system-wide budget cuts of up to 21% had been discussed which had prompted discussion of financial exigency. He posed the question to the Board if financial exigency needed to be declared at this point.

Regent Alden urged the Board that if it is going to consider higher tuition and fees, that it do it soon but with thoughtfulness and fully prepared materials so that the discussion at the Budget and Finance Committee would be productive. He felt this needed to be done within 60 days so that the students know what will occur.

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Executive Vice Chancellor Klaich felt it needed to be done sooner than 60 days, but agreed that it needed to be done quickly and clearly. He felt that a declaration of financial exigency was not necessary and should not be on the table for discussion, adding that financial exigency would significantly impact the rights of the faculty combined with the difficulty in ascertaining what the future holds.

Regent Crear requested clarification of exactly what financial exigency is comprised of. Executive Vice Chancellor Klaich clarified that the declaration of financial exigency and invoking the various procedures involved with it should be off the table. He felt that the System should manage the budget cuts within its available resources without terminating contracts or contractual rights with respect to professional and tenured faculty.

Chancellor Rogers asked Chief Counsel Patterson if a declaration of financial exigency was tantamount to declaring Chapter 11 bankruptcy. Regent Crear asked if there were certain items that fell within that financial exigency, such as tuition and fee increases. Executive Vice Chancellor Klaich replied that the main impact of a declaration of financial exigency is that it shortens up the notice period for termination of contracts and the implementation of layoffs and furloughs. The process would significantly impact the relationship between the Board, the institutions and the professional faculty. In his opinion, the final budget reduction did not rise to the level of a declaration of financial exigency. However, he asked the Board to allow for a small working group to be assembled, including representatives from faculty, human resources, finance and legal, to investigate the potential personnel issues including options on handling the state-mandated furloughs for classified employees and other options for the professional employees. This group will be identifying creative solutions and making recommendations to the Board in June. At that time, the Board may also be asked to reconsider certain policies and procedures within the System that prevent the presidents from doing what is necessary to manage the budget cuts.

Regent Leavitt asked Chief Counsel Patterson to further explain what financial exigency means within a system context, including the differences between financial exigency and bankruptcy, as well as whether the System is eligible to make that declaration and why he would or would not advise making that declaration. Chair Wixom indicated that the Board would need to return to that question to allow the staff time to form a response.

Regent Knecht indicated he was also going to ask Chief Counsel Patterson if there was a predicate in place for declaring financial exigency. Secondly, he indicated that he has prepared a comprehensive synthesis and proposal that he would like to present upon conclusion of the Board's discussion.

Regent Crear asked if the 10% increase approved by the Legislature specifically applied to tuition or if it included fees (*5% per year*). Executive Vice Chancellor Klaich explained that the legislatively approved increase was related to fees and not to tuition at this point. He explained that the Letter of Intent generally indicates that there is a splitting of the fee

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increases between the state budget and the campus-retained budgets. The legislature has said that the presidents must have the flexibility of spending this money but that it has to support the basic budgets. The increase is specifically related to fees. Regent Crear asked if a discussion on tuition was currently an option. Executive Vice Chancellor Klaich indicated that discussion was an option. However, more progress was made from the discussion on fees.

Regent Geddes noted that tuition is for out of state students and 100% of that goes to the state. He asked what percent increase would allow the System to achieve the no more than 10% figure being targeted. Executive Vice Chancellor Klaich indicated that answer was not known at this time. Vice Chancellor Nichols added that the complexity of answering that particular question was that the 5% for community colleges is different than 5% for the universities. It is on a campus by campus basis that the impact of 10% versus 12% reduction would be seen. In addition, there are different expectations on each campus of the actual student enrollment which will affect the presidents' budgets. Regent Geddes indicated that his question was asked in the context of potential approval of fees at the June meeting. He asked to see a range with the available options to determine if the campuses have what they need to operate.

Regent Geddes referred to the "Allocation of Joint Subcommittee approved cuts for NSHE (05-12-09)" spreadsheet, noting that the table on the top of the page indicates that the percent of General Fund Cut from FY 09 column indicates 12.51% for DRI. However, the table on the bottom of the page indicates that DRI will receive a 14.46% reduction and asked for an explanation. Executive Vice Chancellor Klaich indicated that although the overall cut has not been determined at this time, it will be slightly in excess of 13.5%. DRI President Wells indicated that it would be 13.75%; UNR President Glick indicated that their institution's cut would be 15.04%; UNLV President Ashley related that it would be approximately 15% for their institution.

DRI President Wells added that other actions taken by the legislature that protected DRI's non-formula equipment budget included restoring \$56,000 in 2010 and \$61,000 in 2011 which was then transferred to NSC.

Executive Vice Chancellor Klaich reminded the Board, in regards to the table that Regent Geddes referred to, that the Executive budget recommendation included huge cuts to the instructional budgets and then increases in System Administration and Intercollegiate Athletics budgets. One of the issues discussed was the fundamental unfairness of that. The cuts were then spread above and below that line in as fair a manner as could be determined to share the pain throughout.

Chair Wixom asked if the Regents had any other questions related to the financial materials that were received.

Regent Cobb asked Executive Vice Chancellor Klaich to explain the columns listed on the reference entitled "Allocation of Joint Subcommittee approved cuts for NSHE (05-12-09)."

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Executive Vice Chancellor Klaich related that the column titled “FY 09 GF + COLA” was critical in that it reflected what the legislature appropriated to the various institutions plus what was received from the Board of Examiners for the COLA draw in 2009. It does not represent the actual dollars spent. The “State Support” column equates to the General Fund appropriation. “Other Revenues” refers to tuition and fees. The “Total Budget at funding level: 74.10%” accumulates the State Support and Other Revenues columns. The “Percent Gen. Fund Cut from FY 09 Leg. App. + COLA” reflects a preliminary percentage cut for FY 09 and FY 10 before consideration was made for the additions and adjustments referred to under “Stoploss” and “Other Adjustments.”

Regent Cobb asked if the 16.73% listed for UNR under the “Percent Gen. Fund Cut from FY 09 Leg. App. + COLA” reflected the reduction from FY 09 as well as what was proposed for FY 10. Executive Vice Chancellor Klaich indicated that was correct.

Executive Vice Chancellor Klaich continued that the “Stoploss” column pulls it back by 2.25%. The “Other Adjustments” column refers to the adjustments made by the transfer of non-formula budget (*NFB*) funds to NSC as well as the adjustment that addresses CSN’s equity issue. That column is then followed by the “Revised Gen. Fund Cut.” The final column, “Total State Support (*incl. ARRA*)” relates to the \$592 million of General Fund money that the state has appropriated to the System.

Executive Vice Chancellor Klaich related that he has not attempted to discuss the stimulus act or its affect on the budget up to that point, feeling that it would only serve to confuse the conversation further. Chair Wixom agreed, adding that it was safer to say that the total number included the stimulus dollars. Executive Vice Chancellor Klaich concurred, adding that because one of the critical purposes of the ARRA was to assist in the mitigation of fee increases, those funds would be applied to instructional budgets only.

Regent Cobb asked if the System would receive federal stimulus dollars in addition to the funds shown in the reference material. Chair Wixom clarified that the Total State Support is inclusive of the stimulus dollars. Regent Cobb felt that, if that were the case, it would not make a difference where the money comes from as it was the bottom line. Executive Vice Chancellor Klaich agreed but added that it will make a difference down the line.

Regent Geddes asked what percentage of Total State Support (*\$592 million*) came from stimulus funds. Executive Vice Chancellor Klaich could not provide the exact amount, only that the stimulus funds were included in the total number.

Regent Knecht related that of the \$592 million total state support, approximately \$92 million appears to be from stimulus funds. Secondly, the \$681 million indicated in the “FY 09 GF + COLA” column is the legislatively appropriated amount plus COLA. It is not actually what was received or spent, adding that after the cuts of this biennium, that \$681 million is more on the order of approximately \$617 million. He added that the reference material provided did not include the System’s self supporting budget which could not be known at this point, but is approximately \$300 million per year, System-wide.

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Regent Blakely added that the “Revised Gen. Fund Cut” indicated the actual percent cut applied to each institution. He observed that the percentage fund cut for the two universities were an equal number and the distribution of the percentage cut throughout the remainder of the institutions also appeared to have been made fairly.

Chair Wixom requested that the Board revisit the financial exigency issue. He agreed with Chancellor Rogers and Executive Vice Chancellor Klaich that financial exigency was not necessary at this time. However, the question continues to be raised. He requested that Chief Counsel Patterson elaborate on exactly what a declaration of financial exigency is and why it is not necessary.

Chief Counsel Patterson indicated that he would use the term financial “emergency” instead of exigency. He related that the basic definition for declaring a financial emergency is the lack of funds to meet current or projected expenditures. Although financial emergency is sometimes considered a bankruptcy, he prefers not to use that terminology as it implies several issues that are simply not true such as a liquidation of assets or the assigning of a third-party administrator of the System. He clarified that financial emergency only applies to the System’s professional personnel contracts. It would not apply to other financial contracts. The application of financial emergency shortens the notice period for non-tenured faculty and would allow financial-related action to be taken on a tenured faculty contract, which is not otherwise allowed under current policy. He also informed the Board that under its current policy, before an emergency is declared, the Board Chair and the Chancellor must determine that all options have been exhausted. If the definition of financial exigency was determined to have been met, and the Board made such a declaration, the Board could also include specific parameters within that declaration.

Chancellor Rogers felt that declaring financial exigency would send a negative message to the legislature after they had worked so hard to lower the initially recommended budget cut from approximately 40% to 10.25%. He reiterated his strong opposition to making that declaration, adding that he felt it would be an act of bad faith.

Regent Gallagher felt that besides the negative message it would send, it was not a true reflection of the situation and simply not necessary.

Regent Cobb asked if tenured faculty were basically exempt from salary reductions and non-tenured faculty still must be provided a one year notice for salary reduction or furloughs, what options were available to the presidents to absorb the budget reductions. Executive Vice Chancellor Klaich replied that is what the personnel team will determine and will make a report back to the Board in June. Secondly, to the extent that the System continues to respect contract and faculty rights, the budget reductions are to be considered additional operating cuts that will have to be absorbed out of some other operating budget.

Regent Cobb asked for examples of the type of operating cuts that would be considered. UNR President Glick related that there is great reservation in having the classified staff

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taking a salary cut while the professional staff does not. As he understands it, it is only for the first year that professional salaries could not be adjusted. Should the Board provide specific direction, those adjustments could be made in the second year of the biennium. Operating cuts would be programmatic such as the elimination of the career development center, the equestrian program and the writing and math centers. President Glick felt that, due to the very good work of their provost and deans, UNR will be able to meet the targeted reductions without having to reduce salaries. However, there will be a less broad-based university after it is done and one that has larger class sizes. President Glick also indicated his support for not declaring a financial exigency.

Chair Wixom stated that, based on the discussion, there are three issues to address: 1) what the Board does with respect to the fee increases and the suspension of the Letter of Intent, including how or when those issues are addressed and how the Board addresses the fee surcharge suggested by the legislature; 2) the difference in the way the classified staff are treated versus professional staff (*professors/faculty*). Employees will be mandatorily subjected to a salary decrease while professional staff is not, and that is an issue; 3) implementation of a final plan by June 30th.

Regent Knecht expressed his appreciation to Chancellor Rogers, Executive Vice Chancellor Klaich and System staff, as well as to the faculty and students for a very good job. Secondly, although the System can be relieved that it is not facing a larger percentage cut, higher education is still taking a disproportionate hit relative to the rest of the state budget. He has been opposed to that noticeable differential from the start. The good news is that progress is being made on the Letter of Intent issue. He felt it was important to keep in mind that the budget received was not final as there were still seven to eight days remaining until the end of the legislature. Regent Knecht stated that in regard to financial exigency, Chief Counsel Patterson has indicated that he could not advise the Board that it could make a declaration of financial exigency as the necessary information was still inconclusive. He felt the System wanted to avoid declaring financial exigency if at all possible. Between the personnel team and the continuing work of the financial staff, it is reasonable to expect that well before the June meeting, the Board would have proposals for managing this process, contingent upon what actually is finalized by the end of the legislative session.

In addressing the equity of the personnel issue, Regent Knecht felt a particular kind of sympathy with the classified staff. He proposed that the Board task the System staff, the institutions and the classified staff to present to the Board at the June meeting, a set of proposals for establishing guidelines in which to approach implementation of the budget that maximizes achievement of the System and institutional missions while optimizing concerns and issues as if the personnel contractual constraints did not exist. He would also suggest that the Board charge Chief Counsel Patterson to work with Executive Vice Chancellor Klaich, System staff and the institutions, to render an opinion as to whether, in fact, the System meets criteria for financial exigency. He felt the implication would then be clear that the System is moving toward a fee increase, not financial exigency, and that it was vitally concerned about the equity issues between classified and professional staff.

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Regent Knecht moved to task the System staff with the above charge. Chair Wixom felt that a motion would be premature until all Regents had an opportunity to comment and ask questions.

Regent Alden offered to make a motion or proposal specifically in regards to increased fees and/or tuition. Chair Wixom felt that any motion would be premature at this point in time and requested that the Board be allowed to discuss the issues further.

Regent Crear asked if the legislature's budget recommendation was set, or if the Governor still had flexibility in making changes. Executive Vice Chancellor Klaich replied that the Governor has the right to veto or not veto, but he could not change the legislature's recommendation. The 12.5% was a fixed recommendation by the legislature. However, the legislature is still in discussion regarding the revenues. The legislative's recommended budget is expected to remain at 12.5% unless something goes terribly wrong during the revenue discussion.

Regent Geddes asked if, for the purpose of the System's discussion, 12.5% meant 13.1%. Chair Wixom indicated that was correct.

Regent Anthony felt that this meeting had provided an opportunity for a very informational briefing. However, since many aspects were still a work in progress, he asked what specific action needed to be taken. Chair Wixom stated that, conceivably, no action was necessary that day. In essence, the Board is asking staff to report further information at the June Board meeting. The concern was that if the Board were to impose a fee surcharge that day, it would be made before the institutions have the opportunity to consider the impacts of such a fee surcharge. In that regard, he felt that any action would be premature.

Regent Anthony recommended that the Board not take any action that day and wait until the June Board meeting or schedule a special meeting as necessary. Chair Wixom indicated that the action needed that day may be in the form of direction to the staff.

Regent Gallagher asked what direction could be given to staff without knowing the outcome of the legislature's discussion on revenue.

Regent Schofield concurred with Regent Anthony, that it was premature to take any action that day.

Executive Vice Chancellor Klaich related that the personnel team would work over the next month to determine a series of recommendations for the Board's consideration. Chair Wixom asked if the recommendations would include the three issues he had previously identified. Executive Vice Chancellor Klaich replied that the recommendations may include other options as well.

Executive Vice Chancellor Klaich continued that the System and presidents will also review all Board policies that may hinder the presidents' ability to manage their budgets over the coming biennium. Detailed recommendations for the Board's consideration will

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be made at the June meeting. In addition, System staff will be developing fee models for the Board's consideration based on the action taken by the legislature. In addition to those three items, the Board may provide additional direction for staff to consider.

Chair Wixom asked if a formal motion was needed that day in terms of direction to staff to respond to these issues. Executive Vice Chancellor Klaich indicated a formal motion was not necessary.

Chair Wixom asked if enough direction was provided that day to allow staff to return to the Board in June with appropriate proposals. Executive Vice Chancellor Klaich felt that there was.

Chair Wixom indicated that his preference would be to allow the staff flexibility in responding to all of the issues by not creating any formal motions.

Regent Alden agreed with the direction provided by Chair Wixom. He requested that the materials relating to tuition and fees to be brought forward for the June meeting be made abundantly clear and requested that every Regent take the time to review the materials prior to the meeting.

Regent Blakely asked which committee would hear the report of the personnel team's findings. Chair Wixom indicated that the findings would be presented to the full Board.

Executive Vice Chancellor Klaich indicated that the early emphasis of the staff's activities would focus on the period between May 14th and June 30th as there were certain actions that must be taken by then to be effective.

Regent Geddes added to Regent Alden's request that staff include a list of specific actions that were available for the Board's consideration.

Regent Knecht asked if Executive Vice Chancellor Klaich plans to include "unconstrained optimization with contingency planning." Executive Vice Chancellor Klaich indicated that he did.

Regent Knecht asked Chief Counsel Patterson to provide, as soon as feasibly possible, an opinion on the predicate condition for declaring financial exigency. Chief Counsel Patterson replied that he would provide that opinion.

Chief Counsel Patterson clarified that although the Nevada System of Higher Education is the appointing authority for its classified employees, it has adopted the policies of the State of Nevada. Therefore, the System has very little flexibility to modify the state's rules.

Regent Leavitt asked, in terms of categorization of state versus System employees, if the Board could take that discussion under consideration. Chair Wixom agreed that discussion should occur. Executive Vice Chancellor Klaich agreed that would be a very important post-June 30th discussion for the Board to have.

1. Information Only – Discussion of 2009-2011 NSHE Biennial Budget – (Agenda Item #1) – (Cont'd.)

Regent Rawson felt that it was never a bad idea to bring business back to the personnel and human side. He related that while observing thousands of students graduating at commencement, he could not help but be impacted by the changes in lives that were being made by the System. He noted that although Nevada State College had a very small graduating class, 4,500 children will be impacted through the students that completed the teaching program. Any action that the Board takes to make it more difficult for the students to obtain their degrees goes against the mission. He was anxious to see the reports at the June Board meeting, adding that it is not a given that he will support any recommendations for a fee increase.

Chair Wixom agreed that commencement ceremonies were a very moving and marvelous experience. He added that sometimes it was easy to lose sight of the impact that the System has on lives during the process of constructing budgets and dealing with issues and problems.

2. Information Only – Public Comment (Agenda Item #2) – Mr. Steven Bale, Faculty Senate Chair, TMCC, and Chair of Chairs, thanked the Regents for their work to protect the faculty and students and the integrity of the System. He felt that it was still within the best interest of each institution to consider all existing programs and determine those that were no longer appropriate. He also stated that the Faculty Senate Chairs are very interested in maintaining equity and working out the issues related to personnel.

Ms. Jessica Lucero, GPSA President, UNLV, also thanked the Regents for their hard word. She related that according to the most recent version of the NSHE Handbook, in 2010/11 the graduate students will be paying \$67 more per credit than they did in 2007/08. That was a 39% increase. She felt that additional increases seem to be disproportionate. She related that at the June meeting, the GPSA will present a resolution for the Board's consideration to implement a \$5 per credit hour fee that will revert the current \$1.24 that the student government has traditionally received back to the institution. \$2.76 of that fee will be going to support graduate assistantship tuition. She related that the students are doing their part and asked the Regents to do whatever was possible to protect the students from further impact. She added that graduate/professional students also increase FTE numbers, they teach a vast number of courses as well as conducting a vast amount of research and asked that be considered in future fee and tuition discussions. Chair Wixom agreed that it was important for the Board to understand the contributions that graduate and professional students make and asked the presidents to take those contributions under consideration in future discussions.

Ms. Juanita Simpson, representative of Clark County Democratic Black Caucus, thanked Chancellor Rogers, Executive Vice Chancellor Klaich and the Regents for the opportunity to address the Board. She related that she is a retired Clark County educator. She expressed her concern for the scheduled June closure of CSN's A.D. Guy Education Center. She stated that Judge Guy was the first African American judge appointed in the state of Nevada. She related that she has been participating in classes at the Center since

2. Information Only – Public Comment (Agenda Item #2) – (Cont'd.)

it first opened and that the facility is the only point of access to technology for many people from as far away as Henderson. She said that many people do not realize the Center will be closing and she has started a petition to keep the facility open.

Chair Wixom thanked Ms. Simpson for bringing her concerns to the Regents. He introduced Ms. Simpson to CSN President Richards and to Ms. Patty Charlton, Vice President of Finance, CSN, and asked that they speak directly with each other about the situation and the options available. On a personal note, Chair Wixom related that Judge Guy had been his first trial judge, adding that he had been an inspirational figure for him personally, as well as for many others.

Regent Crear thanked Ms. Simpson for attending the meeting. He related that the Center is located within his district and that he had grown up in that Center. He has received a tremendous number of phone calls from constituents concerning the closure of this facility. He felt the services that the Center offered to the community were important.

Ms. Patricia Sawicki, resident of Las Vegas, also addressed the Board in regard to the projected closing of the A.D. Guy Center. She related how important the Center has been in assisting her and many others with the technological requirements of applying for employment as well as other day to day tasks.

Mr. Adam Cronis, CSUN President, UNLV, thanked the Regents for their efforts and for being very approachable to the students. He asked the Regents to continue to keep the students in mind when considering future fee increases and offered his participation on any committees that may be organized in relation to the potential surcharge increase. Chair Wixom asked Mr. Cronis to communicate directly with Executive Vice Chancellor Klaich.

Mr. Nathaniel Waugh, ASCSN President, CSN, thanked the Regents for the work they have done. He addressed the comments on the A.D. Guy Center and made himself available to the efforts to save that facility.

Regent Cobb felt that the public comment reflected the reach of higher education in Nevada and hoped that the local media would pick up on the impact of the budget cuts on the lives of everyday citizens.

3. Information Only – New Business (Agenda Item #3) – None.

The meeting adjourned at 10:10 a.m.

Prepared by: Jessica C. Morris
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Submitted for approval by: Scott G. Wasserman
Chief Executive Officer of the Board of Regents

Approved by the Board of Regents at the September 17-18, 2009, meeting.