

**SPECIAL MEETING
BOARD OF REGENTS**

Others Present: *(Continued)*

Ms. Sonja Sibert, Vice President, Business Affairs, GBC (sitting in for
Ms. Joyce M. Helens, President, GBC
Mr. Bart J. Patterson, President, NSC
Dr. Karin M. Hilgersom, President, TMCC

2. Approved – Cost of Living Adjustment for NSHE Classified and Professional Employees
– The Board approved the Chancellor's recommendation to direct the Presidents to implement a 3 percent cost of living adjustment to all faculty and classified staff in the NSHE with 2.4 percent from the appropriations bill and working with the options outlined for the Presidents to come back by December 2019 with plans to cover the .6 percent shortfall.

Chancellor Reilly stated the Legislature has traditionally appropriated to the Board of Examiners 80 percent of funds necessary to effectuate a COLA for classified and professional employees of NSHE. AB 542 was passed on the last day of the session and appropriated approximately 64 percent of the funds necessary to effectuate a 3 percent COLA beginning July 1, 2019, which is approximately 16 percent less than the 80 percent funding NSHE anticipated. Fully funding a 3 percent COLA for NSHE employees will create an anticipated budget shortfall of approximately \$6.4 million over the biennium.

2. Approved – Cost of Living Adjustment for NSHE Classified and Professional Employees
– (Continued)

Regent Hayes asked for the Chief General Counsel's legal opinion. Chief General Counsel Joe Reynolds reviewed the statutes mentioned by Regent Trachok and disagreed with the assessment. Approximately 1/3 of NSHE's funding comes from student fees and other sources outside of traditional appropriations by the Legislature. To advance a narrow construction of the provision would effectually mean that the Board and other state agencies would be violating the law in the traditional way COLA funding has always been handled. COLA has traditionally been funded at 80 percent and it has always been expected that the state entities will find the additional 20 percent. Chief General Counsel Reynolds stated it is his opinion that the Board would not be in violation of the statutory provision if it were to adopt the Chancellor's recommendation.

Regent Hayes thought the 80 percent funding was not for the agencies to make up the difference, but instead because of expected attrition and vacancies.

In response to a question from Regent Hayes pertaining to agencies that are fully funded by user fees, Chief General Counsel Reynolds stated that is why he feels this statutory prohibition would not apply. A state agency cannot go into debt beyond the allowed budget.

Regent Hayes requested a written analysis from Chief General Counsel Reynolds and opinions from the Governor's Office and the Legislative Counsel Bureau.

Chief Financial Officer Andrew Clinger stated the salary adjustment account has historically been funded at 80 percent. SB 553 authorizes agencies that do not receive state general funds to spend the fees that they collect. Chief Financial Officer Clinger stated the Board would not ask for the salary adjustment funding from the Board of Examiners until late in the fiscal year.

In response to a question from Chairman Page, Chief Financial Officer Clinger stated he reviewed funding back to 2005 and it has always been funded at 80 percent. His recollection was that higher education has been funded at 80 percent for at least 20 years.

Chairman Page asked if any other agency has been funded at less than 80 percent. Chief Financial Officer Clinger stated the Governor's Finance Office and the legislative staff are saying that because higher education is funded with 1/3 student fees and 2/3 general fund appropriations that the calculation has been adjusted to reflect that and that is what they do with other agencies. Historically, that is not how higher education has been funded.

Regent McAdoo asked if no action is taken what are the System's options in the days to come to acquire and then award the balance to employees. Chief Financial Officer Clinger stated that in between sessions funds are allocated to an IFC contingency fund which is for situations when an error has been made or there are unexpected expenditures. Without the contingency funds, the Presidents will have to look at cost cutting measures.

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– *(Continued)*

Chief General Counsel Reynolds added normally the purpose of the IFC is to allow a funding mechanism between sessions to allow agencies to request funding to meet expenditures and needs. The difficulty with approaching IFCs is that

2. Approved –

The meeting adjourned at 9:58a

Prepared by: Angela R. Palmer
Special Assistant and Coordinator
to the Board of Regents

Submitted for approval by: Dean J. Gould
Chief of Staff and Special Counsel
to the Board of Regents

Approved by the Board of Regents at its September 5 & 6, 2019, meeting.