

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

BE IT REMEMBERED, That the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi met in a regular session at the Board Office in Jackson, Mississippi, at 8:30 a.m., and pursuant to notice in writing mailed to each and every member of said Board, said date being at least five days prior to this August 16, 2006 meeting. At the above-named place there were present the following members to wit: Mr. H. Ed Blakeslee, Mr. Thomas W. Colbert, Dr. Stacy Davidson, Mr. Roy Estess, Dr. D. E. Magee, Jr., Dr. Bettye Henderson Neely, Ms. Virginia Shanteau Newton, Mr. Bob Owens, Mr. Aubrey B. Patterson, Ms. Robin J. Robinson, and Mr. Scott Ross. Ms. Amy Whitten was absent. The meeting was called to order by Dr. D. E. Magee, President, and opened with prayer by Dr. Davidson.

APPROVAL OF THE MINUTES

On motion by Ms. Robinson, seconded by Dr. Neely, with Mr. Ross and Ms. Whitten absent and not voting, it was

RESOLVED, That the Minutes of the Board meeting held on July 19, 2006, stand approved, as amended.

PRESENTATION

Dr. Meredith introduced Dr. Hank Bounds, State Superintendent of Education, who spoke about ACT scores and focusing on the five issues that influence student outcome.

RECOGNITIONS

Dr. Meredith recognized Dr. Jason Dean, former Policy Advisor on Education for Pre-K-12, the Community Colleges, and the Universities in Governor Haley Barbour's Office. Dr. Dean has been selected to become a White House Fellow in Washington, D.C. He thanked the Board, Commissioner Meredith, Ms. Suzanne S. Sharpe, who is the IHL Assistant Commissioner for Governmental Relations and Legal Affairs, the IHL staff, and Dr. Andy Mullins, who is the Executive Assistant to the Chancellor at The University of Mississippi, for all of their help and support during his tenure.

ANNOUNCEMENT

Dr. Meredith announced that today's Board meeting is being webcast within the Paul B. Johnson, Jr., tower building only. The September meeting will be webcast throughout the state.

CONSENT AGENDA

On motion by Ms. Newton, seconded by Ms. Robinson, with Mr. Ross and Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved the following Consent Agenda, excluding item #6.
AGENDA ITEM #6 WILL BE TAKEN UP LATER IN THE MEETING.

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
August 16, 2006**

REAL ESTATE AND FACILITIES

1. **MVSU** – Approved the initiation of **GS #106-180, Student Health Building Renovation, Phase II, HVAC Ventilation and Gutter Modification** as recommended by the project professionals. It is recommended that Atherton Engineers be appointed as project professional for the above stated project. It has been determined by the Bureau of Building, Grounds and Real Property Management and the university that the construction documents are within the project scope. The proposed project budget will total \$50,000 with remaining funds available from Senate Bill 2988, Laws of 2003.
2. **UM** - Approved the Construction Documents prepared by McElroy & Architects of Jackson, Mississippi, authorized advertising for the receipt of bids and request approval by the Bureau of Building for **GS #107-280, Campus Re-Roofing**. The budget for this project is \$800,000. Funds are available from Senate Bill 2010, Laws of 2004.
3. **USM** - Approved the Construction Documents prepared by Allred/McNabb Architects, authorized advertising for the receipt of bids, and request approval by the Bureau of Building for **GS #115-003, Renovation of Knauer Building at Stennis Space Center**. Funds are available from House Bill 1634, Laws of 2006.
4. **DSU** – Approved the bids, the award of a contract to the lower of two bidders, Lehman Roberts, Co. in the amount of \$292,050.18, request approval by the Bureau of Building for **GS #102-207, 2005 Street Repairs**. Funds are available from Senate Bill 2010, Laws of 2004.
5. **DSU** - Approved the bids, the award of a contract to the lower of two bidders, Upchurch Plumbing, Inc., in the amount of \$598,000, and request approval by the Bureau of Building for **GS #102-206, Ewing Hall HVAC Repair**. Funds are available from Senate Bill 2010, Laws of 2004.
6. **MSU** – Request approval of the bids and the award of a contract to the lowest bidder, Vaughn Construction, Inc., Leland, Mississippi, in the amount of \$432,000 for **IHL #213-131, Renovation of Building 1585, Phase II**. The contract includes the base bid plus alternates #1 and #2. Funds are available from the Department of Health and Human Services (Congressional Federal Earmarked Dollars) in the amount of \$441,929. **(THIS ITEM WAS TAKEN UP LATER IN THE MEETING.)**
7. **UMMC** - Approved the request to accept a proposal from Johnson Controls, Inc., to provide the controls system for **IHL #209-435 D, Chilled Water Revision Guyton Contract III**. Purchase is in accordance with established Premier Purchasing Procedures. Funds are available from university sources in the amount of \$1,056,127.00 from Grants and Contracts and Federal Funds.
8. **UM** – Approved the request to execute a five-year renewal agreement with Barnes & Noble College Booksellers, Inc. to operate and provide services for the campus bookstore. The new lease increases the minimum guarantee to the university from \$450,000 to \$600,000 annually. The university also receives a commission on sales over \$6,500,000 at 10%, between \$6,500,000 and \$9,000,000 at 12%, between \$9,000,000 and \$11,000,000 at 14%, and over \$11,000,000 at 16%. The amount of space being leased under the new agreement decreases.

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

PERSONNEL REPORT

EMPLOYMENT

Delta State University

Buckley, Matthew

Jackson State University

Begonia, Gregorio Britos

Jacks, Jr., Leonard

Johnson, Jr., Harvey

Qureshi, Mohammad

Tchounwou, Paul B.

Watkins, Daniel

Mississippi State University

Butler, Gary D.

Mississippi University for Women

Bouse, Gary

University of Mississippi - Athletics

Bunn, Kyle S.

Reinstetle, Robert A.

CHANGE OF STATUS

Jackson State University

Foster, Velvelyn B.

University of Southern Mississippi

Masters, Kathleen

May, Michael

von Herrmann, Denise

TERMINATION

Alcorn State University

Fungwe, Thomas

Delta State University

Anderson, Tonya

Bell, Tara

Bouler, Paul P.

Davis, Richard

Johnson, Marquis

Smith, Elizabeth

Stout-Strong, Akemi

Washington, Chad

Mississippi State University

Fuller, Marty J.

Harden, Jr., James C.

Hardin, III, William G.

Mississippi University for Women

Evans, Lea Helen

Lott, Patti

McIntyre, Jennifer

Plunkett, Sarah

Seabergh, MaryNeff

Wells, Sally

Mississippi Valley State University - Athletics

Coleman, Leon

Jackson, D'Jamal

Mississippi Valley State University

Florence, Enoch

Gaston, Tawanna

Jennings, Mary Alice

Moore, Robert

Reed, Christina

Ross, Phaedra

Stuckett, Carolyn

Taylor, Francis

University of Mississippi - Athletics

Lake, Stuart D.

McDonnell, Daniel S.

University of Mississippi

Heames, Jon T.

University of Mississippi Medical Center

Allen, Glenn E.

Aubert, Richard J.

Baker, Robert

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

Blanchard, Richard J.
Brown, Beverly
Burris, Deborah S.
Cashiola, Monte A.
Chambliss, Paula E.
Coates, Joann
Coleman, Charles
Dockins, JoAndrea T.
Dougherty, Bert G.
Draper, Douglas O.
Fennell, Tiffany
Fisher, Marc F.
Hammond, Jack L.
Haven, Guy T.
Hillsman, Gray
Holly, Sandra
Howard, Jeffrey C.
Hughes, Gail D.
Krejmas, Nancy L.
Little, II, Reuben
Maddux, Robert
Martin, Leanne B.
McCaughan, Hazel G.
Mills, Jr., Henry P.
Mittal, Dinesh
Moreland-Young, Curtina M.
Murray, Martha J.

Nasrallah, Henry
Nassar, Jamil G.
Richardson, David
Rigsby, Reginald D.
Rives, II, William O.
Runnels, Rudolph S.
Rushing, Keith S.
Russell, Randy
Short, Valerie A.
Suarez, John C.
Wein, Richard O.

University of Southern Mississippi - Athletics
Hansen, David P.

University of Southern Mississippi
DeCasal, Carole Anita
Hamilton, Joy C.
Kuskin, William
Sanford, Julie T.
Walker, Sharon H.
Wall, Kay L.

AWARD OF TENURE

Mississippi University for Women
Smyth, Patsy

EDUCATIONAL POLICIES & PROGRAMS AGENDA

Presented by Dr. Bettye Neely, Chair

On motion by Dr. Neely, seconded by Ms. Robinson, with Mr. Ross and Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved agenda item #1 as submitted on the following Educational Policies & Programs Agenda.

1. **System Administration** - Approved the proposed amendment to Board Policy 601.02 Freshman Admission Requirements for University System Institutions. **(See Exhibit 1.)**

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

BUDGET, FINANCE & AUDIT AGENDA

Presented by Mr. Aubrey Patterson, Chair

On motion by Mr. Colbert, seconded by Dr. Neely, with Mr. Ross and Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved agenda items #1 and #2 as submitted on the following Budget, Finance & Audit Agenda.

1. **UMMC**- Approved the request to enter into a contract with MedQuest to transcribe all radiology reports for the University Hospitals and Clinics, Radiology Department. The contract is from September 1, 2006 through August 31, 2007 and will not exceed \$1,000,000. A copy of the contract, which has been reviewed and approved by the Attorney General's Office, is included in the *August 16, 2006 Board Working File*.
2. **UMMC** - Approved the request to enter into a contract with HealthOne for the purpose of collecting third party liability accounts. The compensation rate is 10% - 20% commission on collected amounts. The contract is from September 1, 2006 through August 31, 2009 and will not exceed \$600,000 per year. A copy of the contract, which has been reviewed and approved by the Attorney General's Office, is included in the *August 16, 2006 Board Working File*.
3. **Other Business**
 - a. Dr. Linda McFall, IHL Assistant Commissioner for Finance and Administration, announced that a unanimous consent item was submitted Monday afternoon for the peripherals and servers to build a super computer. The staff has not had time to review the purchase order and contract. In consultation with the chair of the committee and Dr. Meredith, the item will be retained for future deliberation.
 - b. Mr. Brent Ballard, IHL Internal Auditor, spoke to the Board about alternative investments and how it affects the IHL System.

**AYERS ENDOWMENT TRUST
FUND MANAGEMENT AGENDA**

Presented by Dr. D. E. Magee, Chair

1. **System Administration** - *Ayers* Endowment Investment Report. The following recommendations were presented to the Board for approval:
 - a. JSU and MVSU have not met the first year of the three-year requirement for 10% other-race enrollment in order to have control of the public and private endowment funds. As such, the funds could be invested for a longer period to earn a better interest rate. The funds currently are capped at 18 months for investment purposes. The IHL staff recommends allowing the funds remaining under the control of the Board to be invested for a period up to, but not exceeding, 36 months.
 - b. The IHL staff recommends discussion by the Board in regards to developing a plan for private fund-raising efforts by the Board for the \$35 million private endowment funds.

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
August 16, 2006**

Upon the request of the committee members, Dr. Magee postponed action on the above recommendations to allow the *Ayers Endowment Trust Management Committee* to meet and discuss them. Members will be notified of the scheduled meeting.

REAL ESTATE & FACILITIES AGENDA

Presented by Mr. Ed Blakeslee, Chair

AGENDA ITEM #1 WAS APPROVED AS SHOWN BELOW. On motion by Mr. Blakeslee, seconded by Mr. Owens, with Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved agenda items #2 - #6 as submitted on the following Real Estate & Facilities Agenda. Agenda item #7 was approved on a separate motion by Mr. Blakeslee, seconded by Ms. Newton, with Ms. Whitten absent and not voting. Agenda item #8 was approved on a separate motion by Mr. Blakeslee, seconded by Ms. Robinson, with Mr. Ross and Ms. Whitten absent and not voting. Agenda item #9 was approved on a separate motion by Mr. Blakeslee, seconded by Ms. Newton, with Mr. Ross and Ms. Whitten absent and not voting. Agenda item #10 was approved on a separate motion by Mr. Blakeslee, seconded by Ms. Robinson, with Mr. Ross and Ms. Whitten absent and not voting. Agenda items #11 - #12 were approved on a separate motion by Mr. Blakeslee, seconded by Ms. Robinson, with Mr. Ross and Ms. Whitten absent and not voting. **AGENDA ITEM #13 WAS TAKEN UP LATER IN THE MEETING.**

1. **Other Business** - Mr. Blakeslee briefly reported on the discussion held at the August 15, 2006, Real Estate & Facilities Committee special meeting. As a result of the discussions, the Facilities Needs Priorities list was reorganized and redistributed for approval by the Board on August 16, 2006. A copy of the list is included in the *August 16, 2006 Board Working File*.

A motion was made by Mr. Blakeslee, seconded by Mr. Estess, to approve the new Facilities Needs Priorities.

By consensus, the Board changed item #9 on the Facilities Needs Priorities List from "ASU Infrastructure Repairs/Water, Gas, Streets" to "ASU Facilities Repairs/Water, Gas, Streets."

A substitute motion was made by Mr. Owens, seconded by Dr. Neely, to move item #15 "JSU Land Acquisition" on the new Facilities Needs Priorities list to item #5 and moving the other items down accordingly. The motion passed on a 6 to 4 vote, with Mr. Ross and Ms. Whitten absent and not voting. Board members voting for the motion were: Mr. Thomas Colbert, Dr. D. E. Magee, Dr. Bettye Neely, Ms. Virginia Shanteau Newton, Mr. Bob Owens and Ms. Robin Robinson. Board members **voting against the motion were: Mr. Ed Blakeslee, Dr. Stacy Davidson, Mr. Roy Estess and Mr. Aubrey Patterson.**

On motion by Mr. Blakeslee, seconded by Ms. Robinson, with Mr. Ross and Ms. Whitten absent and not voting, the Board approved the new Facilities Needs Priorities list, as amended by moving #15 JSU land acquisition to #5 and moving the other items down accordingly.

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
August 16, 2006**

On motion by Dr. Neely, seconded by Ms. Robinson, with Mr. Ross and Ms. Whitten absent and not voting and Mr. Patterson abstaining, the Board voted to make *Ayers* a separate category along with the safety and fire code compliance items.

On motion by Mr. Blakeslee, seconded by Mr. Patterson, with Ms. Whitten absent and not voting, the Board authorized the Board staff to substitute the MVSU *Ayers* Project Enhancements item on the Facilities Needs Priorities list with the Early Childhood Development Center project in the event that the *Ayers* item is approved separately from the Priorities list.

2. **MVSU** – Approved the initiation of **GS #106-199, Campus Drainage Improvements, Phase II**. The estimated budget is \$1,040,600. This project is a part of \$3,000,000 allocated to the university through the *Ayers* Settlement Agreement. The university is in the process of determining a use for the remaining funds. Funding is available from Senate Bill 3197, Laws of 2003.
3. **UM** – Approved the initiation of a project for renovation of **IHL #207-279, Somerville Hall** and the appointment of Pryor/Morrow Architects of Tupelo, Mississippi, as the project professionals. The project budget is approximately \$975,000. Funds are available from self-generated sources.
4. **UM** – Approved the initiation of a project for renovation of **IHL #207-280, Turner Center Complex Renovation**. The appointment of a project professional will be brought to the Board at a later date. The project budget will be determined by the pre-planning process. Funds are available from self-generated sources.
5. **UM** - Approved the initiation of **IHL #207- 281, Johnson Commons West Renovations**, and the appointment of Foil-Wyatt Architects of Jackson, Mississippi, as project professionals. The project budget is approximately \$800,000. Funds are available from self-generated sources.
6. **Other Business** - The following item was pulled from the Consent Agenda to be acted upon separately.
 - a. **MSU** – Approved the bids and the award of a contract to the lowest bidder, Vaughn Construction, Inc., Leland, Mississippi, in the amount of \$432,000 for **IHL #213-131, Renovation of Building 1585, Phase II**. The contract includes the base bid plus alternates #1 and #2. Funds are available from the Department of Health and Human Services (Congressional Federal Earmarked Dollars) in the amount of \$441,929.
7. **USM** – Approved the initiation of **GS #115-003, Renovation of Knauer Building at Stennis Space Center**, the appointment of Allred/McNabb Architects of Pascagoula, Mississippi, as the project professionals, and request approval by the Bureau of Building. This project was started with a budget of less than \$250,000. Post Katrina construction costs have increased the estimates to \$400,000. Funds are available from House Bill 1634, Laws of 2006 in the amount of \$400,000.
8. **UM** - Approved the request to award a construction contract for **IHL #207-236, Inn at Ole Miss**, to the lowest bidder of five bidders, Panola Construction Company (base bid of \$ 16,000,000 plus alternate #1 - \$600,000). The budget for this project is \$17,000,000 and will be funded by private gifts, self-generated revenues, and The University of Mississippi Educational Building Corporation (UMEBC) bond proceeds.

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
August 16, 2006**

9. **JSU** - Approved the request to enter into an agreement with Follett Higher Education Group, Inc. to design and operate the new Campus Union Building Bookstore. Supporting documents are on file in the Board Office.
10. **UM** - Approved the request to enter into a forty-year lease agreement to lease to the City of Oxford a 1.5 acre tract on the southeastern edge of the university's Oxford campus for use in constructing a new fire station. This new fire station would improve fire protection for the university and for its students, faculty and staff living in the vicinity. Supporting documents are on file in the Board Office.
11. **UM** – Approved the request to execute a swap arrangement in conjunction with its UMEBC Series 2000A variable rate debt. This swap would take advantage of more favorable rates on funds.
12. **UMMC – Bonds** Approved the request to execute a swap arrangement in conjunction with its Medical Center Educational Building Corporation (MCEBC) Series 2001 variable rate debt (\$45 million) which is funding the new University Hospital. The MCEBC requests approval to amend these documents to facilitate the swap agreements to get more favorable rates on the funds. Also, approved the request to employ Ziegler Capital Market Group to act as underwriter and re-marketing agent and Watkins and Stennis PA as bond counsel for a basis swap agreement.
13. **USM** – The request to enter into a 10-year management services agreement with ARAMARK Corporation to provide a complete facilities management operation. Through a public intent to Negotiate/Request for Proposal process, ARAMARK's proposal was selected over Sodexo; Graham Crothell & Associates; and UNICCO. The agreement will be effective October 1, 2006, through June 30, 2016, with a 90-day right to cancel. Supporting documents are on file in the Board Office. **(THIS ITEM WAS TAKEN UP LATER IN THE MEETING.)**
14. **UMMC (Information item.)** - The Medical Center Educational Building Corporation (MCEBC) announced its intention to enter a basis rate swap in connection with the \$44 million variable rate demand revenue bonds, Series 2004 (the UMMC Pediatric and Research Facilities Project). The swap provider is Morgan Keegan Financial Products, Inc. Balch & Bingham LLP is swap counsel and Government Consultants, Inc. is the swap agent.
15. **System Administration (Information item.)** - The Board received the Real Estate & Facilities items that were approved by the IHL Board staff subsequent to the July 19, 2006 Board meeting in accordance with Board Policy 901.03 Facilities Staff Responsibilities. **(See Exhibit 2.)**

LEGAL AGENDA

Presented by Mr. Bob Owens, Chair

On motion by Mr. Owens, seconded by Mr. Colbert, with Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved agenda item #1 as submitted on the following Legal Agenda. On motion by Mr. Colbert, seconded by Dr. Davidson, with Ms. Whitten absent and not

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
August 16, 2006**

voting, the Board approved moving agenda items #2 and #3 to the list of items to be taken up during executive session. **AGENDA ITEMS #2 AND #3 WERE TAKEN UP IN EXECUTIVE SESSION LATER IN THE MEETING.**

1. **MVSU** - Approved the operational agreement between the university and the MVSU Foundation. A copy of the agreement, which has been reviewed and approved by the Attorney General's Office, is included in the bound *August 16, 2006 Board Working File*.
2. **UMMC** - Request approval to settle tort claim #1191. **(THIS ITEM WAS TAKEN UP DURING EXECUTIVE SESSION.)**
3. **UMMC** - Request approval to settle tort claim #1166. **(THIS ITEM WAS TAKEN UP DURING EXECUTIVE SESSION.)**

4. **System Administration (Information item.)** - Payment of legal fees to outside counsel, as follows:
 - a. In relation to litigation and other matters:
 Payment of legal fees for professional services rendered by McMahan & Brinkley (Statement dated 6/9/05) from the funds of The University of Southern Mississippi. (This statement represents services and expenses in connection with the *Jordan* case.)

TOTAL DUE \$29,617.50

Payment of legal fees for professional services rendered by Mitchell, McNutt & Sams (Statement dated 5/24/06) from the funds of The University of Mississippi Medical Center. (This statement represents services and expenses in connection with the *Lerant* case.)

TOTAL DUE \$980.00

Payment of legal fees for professional services rendered by Butler, Snow, O'Mara, Stevens and Cannada (Statement dated 6/19/06) from the funds of the University of Mississippi. (This statement represents services and expenses in connection with the *Durham v. MSCI* case.)

TOTAL DUE \$137.14

Payment of legal fees for professional services rendered by Butler, Snow, O'Mara, Stevens and Cannada (Statements dated 6/26/06, 2/3/05, 4/13/06 and 4/25/06) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of \$10,974.04; \$10,000.00; \$34,915.53 and \$1,268.50, respectively, represent services and expenses in connection with the general advice, professional audit, general advice and general representation of the Medical School & Facilities Practice, respectively.)

TOTAL DUE \$57,158.07

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

Payment of legal fees for professional services rendered by Adams & Reese (Statement dated 6/7/06) from the funds of The University of Southern Mississippi. (This statement represents services and expenses in connection with the *Servedio* case.)

TOTAL DUE \$70.00

Payment of legal fees for professional services rendered by Phelps Dunbar (Statement dated 5/31/06) from the funds of the University of Mississippi Medical Center. (This statement represents services and expenses in connection with the DSH litigation.)

TOTAL DUE \$1,612.52

b. In relation to patent and other matters:

Payment of legal fees for professional services rendered by Butler, Snow, O'Mara, Stevens & Cannada (Statements dated 6/8/06, 5/24/06, 5/24/06 and 6/19/06) from the funds of The University of Mississippi. (These statements, in the amounts of \$1,075.00; \$430.00; \$337.90 and \$1,127.00, respectively, represent services and expenses in connection with the contract negotiations related to a license agreement with Healthcare Metrix, Inc., contract negotiations related to a license agreement with Healthcare Metrix, Inc., commercialization related to a license agreement with Chromadex, Inc. and Phytochemical Services, Inc. equity documents.)

TOTAL DUE \$2,969.90

Payment of legal fees for professional services rendered by Hunton & Williams (Statements dated 5/15/06 and 5/10/06) from the funds of The University of Mississippi. (These statements, in the amounts of \$823.28 and \$632.46, respectively, represent services and expenses in connection with "8-Aminnoquinolines" and "Design and Synthesis of Optimized Ligands and PPAR", respectively.)

TOTAL DUE \$1,455.74

Payment of legal fees for professional services rendered by Stites & Harbison (Statements dated 5/26/06) from the funds of The University of Mississippi. (These statements represent services and expenses in connection with the following patent applications: "Methods for Detecting Vibration and Sounds Signatures of Human Footsteps" - \$1,351.76; "Acoustic Instruments for Use in Aquaculture" - \$55.84; "Plastic Grocery Bag Transporter" - \$146.00; "Marine Compound Inhibiting Cellular Responses to Hypoxia Patent Application" - \$112.02; "Corrugated and Ported Prism Engine Nozzel for Reduction of Supersonic Jet Exhaust Noise" - \$174.72; "Process for Disposal & Solubilization of Radioactive Scale & Sludge from Oil & Gas Production" - \$3,508.68; "Saururus Cernuus Compounds that Inhibit Cellular Responses to Hypoxia" - \$340.03; "Immunostimulatory Agents in Echinacea" - \$1,573.05 and "High Speed Data Compression Algorithms Based on Set-Associative Cache Mapping" - \$117.00.)

TOTAL DUE \$7,379.10

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

Payment of legal fees for professional services rendered by Stites & Harbison (Statements dated 5/26/06) from the funds of the University of Mississippi Medical Center. (These statements represent services and expenses in connection with the following patent applications: “Saliva-Based Protein Profiling” - \$306.00; “Cell Culture Model for Demyelination/Remyelination” - \$51.98 and “Temporary Mucosal Gastric Electrical Stimulation Device and Method for Treating Gastroparesis” - \$925.76.)

TOTAL DUE **\$1,283.74**

GOVERNANCE AGENDA

Presented by Dr. Stacy Davidson, Chair

On motion by Dr. Davidson, seconded by Ms. Robinson, with Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved agenda item #1 as submitted on the following Governance Agenda. Agenda item #2 was approved on a separate motion by Dr. Davidson, seconded by Ms. Robinson, with Ms. Whitten absent and not voting.

1. **System Administration** - Approved the request to submit the required documents to the Mississippi Secretary of State’s Office to comply with the Administrative Procedures Law. A copy of the documents is included in the bound *August 16, 2006 Board Working File*.
2. **System Administration** - Approved the proposed new policies: 1109 Rules for Oral Proceedings and 1110 Requests for Declaratory Opinions—for first reading. These policies substantially mirror the model rules adopted by the Mississippi Secretary of State’s Office. **(See Exhibit 3.)**

COMPENSATION AGENDA

Presented by Ms. Robin Robinson, Chair

On motion by Mr. Patterson, seconded by Dr. Davidson, with Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved agenda item #1 as submitted on the following Compensation Agenda. Agenda item #2 was approved as amended on a separate motion by Mr. Blakeslee, seconded by Mr. Owens, with Ms. Whitten absent and not voting.

1. **System Administration** - Approved the proposed amendment to Board Policy 301.0806 Foundation Activities. **(See Exhibit 4.)**
2. **System Administration** - Approved the proposed amendment to Board Policy 801.16 Foundation Supplementation of Institutional Executive Officers’ Salaries as follows.

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

801.16 **FOUNDATION SUPPLEMENTATION OF INSTITUTIONAL EXECUTIVE OFFICERS' SALARIES
COMPENSATION**

The total amount of any and all salary supplements paid to an institutional executive officer by any foundation shall be less than the state salary paid by the Board of Trustees to such institutional executive officer. ~~The~~ This requirement ~~under this policy~~ shall not apply to any existing salary supplements paid to institutional executive officers as of October 20, 2005. Additionally, ~~the~~ this requirement ~~under this policy~~ shall not cause the total annual amount of any future salary supplements paid to the current institutional executive officers to be less than the total annual amount paid as of October 20, 2005. This ~~policy becomes~~ provision became effective upon passage.

Furthermore, no form of additional compensation to an Institutional Executive Officer may be paid, provided or increased without the prior approval of the Board of Trustees of State Institutions of Higher Learning. The request for approval shall come through the Commissioner to the IHL Board.

STRATEGIC PLANNING AGENDA

Presented by Mr. Roy Estess, Chair

Mr. Estess announced that there has been a considerable amount of discussion and work since the last meeting. The committee is scheduled to convene at the September Board meeting to discuss long-range plans. In talking with other Board members, the Commissioner and some IHL staff, a central theme seems to be emerging that is the long-term goal of increasing the number of graduates from our universities which will directly feed the economic base of the state. Mr. Estess requested that the Board members begin thinking about the top two or three goals that the Board should embrace along with the details of how to achieve those goals.

ADMINISTRATION/POLICY AGENDA

Presented by Dr. Thomas Meredith, Commissioner

1. **System Administration (Information item.)** - In compliance with Board policy, the following items have been approved by the Commissioner on behalf of the Board.
 - a. **System Administration** - Quarterly Employment Hires Report for the Period of April 1, 2006, through June 30, 2006.
 - b. **System Administration** - Quarterly Employment Resignation Report for the period of April 1, 2006, through June 30, 2006.
 - c. **MUW** - Approval of a grant from the Mississippi Department of Education to the university.
 - d. **USM** - Approval of the Traffic Rules and Regulations.

COMMISSIONER'S REPORT

Presented by Dr. Thomas Meredith, Commissioner

1. Next Wednesday, August 23, 2006, Delta State University will host the first of twelve statewide legislative luncheons highlighting our system of education and higher education in particular. The legislative liaisons from the universities have been hard at work coordinating these luncheons. The luncheons are hosted by business leaders at each location. The luncheons will provide an opportunity for you to interact with our funding partners.

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

2. August is the month that we officially kick off the *Annual Best Practices* competition. This will be the second year for the competition. Last year we had institutions who submitted outstanding proposals and we were able to give out a little bit of money. We are trying to highlight university efforts that create efficiency and effectiveness in their operations. We have four categories: Finance, Business and Administration; Academics; Student Services; and Technology. The winners of the four categories received \$10,000 each. The second place winners received \$5,000. The 2006 information can be found on www.ihl.state.ms.us/best_practices/. The deadline for submissions is October 2, 2006. The winners will be recognized in November.
3. Good things continue to happen in our Board Office. Our Department of Finance and Administration under Dr. Linda McFall, recently hired Mr. Illiad Kelly, Contracts and Grants Accountant. Mr. Kelly recently worked for the Mississippi Commission for Volunteer Services as their Chief Financial Officer and prior to that he was the Division Director of Finance for the Mississippi Department of Education.
4. As I mentioned yesterday, if you will look up you will see these cameras. We have seen what the broadcast looks like on a monitor out and about. We think that you will be pleased. I think you are going to be impressed with the feedback that you will get from this in the future.
5. As a reminder, our presentation to the Joint Legislative Budget Committee will be on Wednesday, September 20, 2006 from 10:00 a.m. to 12:00 p.m. After lunch, we will convene here for an afternoon Board meeting. There will be a few items of business that we will have to deal with. Also, we will be hearing about campus master plans.
6. Recently, I met with all of the state library directors. I asked them to serve as a partner with us as we begin to get the message out across the state about the importance of achieving some education beyond high school. We are building what I think will be a terrific website. Mr. Henry Anderson, IHL Website Administrator, is directing that project for us. That project should develop a non-threatening way for the people of this state to find out what you do to get more education. We will train the library directors to assist people in accessing the website from the library computers. The library directors were very enthusiastic about this project and are excited to be partnering with us.
7. Last week I had a terrific visit to Alcorn State University. President Clinton Bristow, President, and I had an excellent visit. I was amazed at the differences in the campus from the last time I visited years ago. Alcorn has a special mission. An awful lot of wonderful things are happening at this institution and I want to thank Dr. Bristow for that.
8. As part of the good news that we usually share with you:
 - a. Alcorn State University is in the midst of a million dollar campaign to raise money for student scholarships. "Million Dollar Madness" I think they call it. They partnered with Tom Joiner the commentator and radio personality. Together they have raised over \$100,000 recently.
 - b. Mississippi State University announced last week that they have over \$154 million in external funds.

We have a lot of action under way in our institutions in garnering outside dollars. Quite frankly, if we are going to be competitive and be recognized nationally, we have to be in that game. Our institutions are really starting to step up to that and I appreciate it.

- c. More good news, Delta State University had both their men's and women's swim team named as academic all-American Swim Teams. To qualify, each member has to have at least a 2.0 Grade Point Average.
- d. At The University of Mississippi, in addition to their faculty and staff state appropriated pay increases, the university recently announced a significant portion of their money, \$12 million, in raises and benefits, went to increasing on-campus minimum wage up to \$8.50 per hour which

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
August 16, 2006**

is well above the national minimum requirement of \$5.15. This directly affects 160 of their employees. That was an exceptional commitment on your part Dr. Khayat. We appreciate that consideration.

9. Mr. Ray Hayes, the outstanding Vice President for Finance at Mississippi State University, was there for a long time, left for a while to go out to Texas, the bright lights brought him back home to Mississippi. Now he will be joining the University of Alabama System. They are very lucky to get Ray and Ray, you will bring great talent to that outstanding system. We want to wish you well and thank you for all of your good service here.

OTHER BUSINESS

1. Ms. Newton urged the Institutional Executive Officers to keep the Board apprised about events occurring on their campuses.
2. Dr. Ronald Mason, President of Jackson State University, announced that BankPlus funded a \$1 million chair in accounting. This is the first externally funded chair in the history of the university.

EXECUTIVE SESSION

On motion by Dr. Magee, with Ms. Whitten absent and not voting, the Board voted to close the meeting to determine whether or not it should declare an Executive Session. On motion by Mr. Owens, seconded by Dr. Davidson, with Ms. Whitten absent and not voting, the Board **voted to go into Executive Session** for the reasons later reported by the President in Open Session and stated in these minutes, as follows:

Discussion of two litigation matters at the University of Mississippi Medical Center.
Discussion of a personnel matter at the Board Office.
Discussion of a personnel matter at The University of Southern Mississippi.
Discussion of a prospective Board land transaction.

The following items were discussed during executive session:

The Board discussed a personnel matter at The University of Southern Mississippi. **No action was taken.**

On motion by Mr. Owens, seconded by Dr. Davidson, with Ms. Whitten absent and not voting, the Board approved the settlement of the case styled *Yolanda Banks vs. UMMC* (Tort Claim #1191).

On motion by Mr. Colbert, seconded by Mr. Patterson, with Ms. Whitten absent and not voting, the Board approved the settlement of the case styled *Alphonse Larry vs. UMMC* (Tort Claim #1166).

On motion by Mr. Blakeslee, seconded by Ms. Newton, with Mr. Colbert, Mr. Ross, and Ms. Whitten absent and not voting, the Board approved the employment of Mr. Robert Bass as the Project Director—Gulf Coast operations.

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING**

August 16, 2006

On motion by Mr. Owens, seconded by Dr. Neely, with Mr. Colbert, Mr. Ross, and Ms. Whitten absent and not voting, the Board voted to return to Open Session.

The Board discussed the following items during open session.

On motion by Ms. Robinson, seconded by Dr. Neely, with Mr. Colbert, Mr. Ross, and Ms. Whitten absent and not voting, the Board approved a \$25,000 foundation supplement for Dr. Claudia Limbert, President of Mississippi University for Women, for the 2006-2007 year.

On motion by Mr. Blakeslee, seconded by Dr. Davidson, with Mr. Colbert, Mr. Ross, and Ms. Whitten absent and not voting, the Board approved the following actions:

1. Employment of an energy management consultant to assess the facilities needs of the IHL System;
2. Employment of a facilities management consultant to assess the feasibility of outsourcing the facilities management for the IHL System; and
3. Employment of a consultant to assess the proposed 5-year management services agreement between The University of Southern Mississippi and ARAMARK Corporation to provide a complete facilities management operation.

ADJOURNMENT

There being no further business to come before the Board, on motion by Ms. Robinson, seconded by Dr. Davidson, with Mr. Colbert, Mr. Ross, and Ms. Whitten absent and not voting, the Board members voted to adjourn.



President, Board of Trustees of State Institutions of Higher Learning



Commissioner, Board of Trustees of State Institutions of Higher Learning

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
August 16, 2006**

EXHIBITS

- Exhibit 1 Proposed amendment to Board Policy 601.02 Freshman Admission Requirements for University System Institutions.
- Exhibit 2 Real Estate & Facilities items that were approved by the IHL Board staff subsequent to the July 19, 2006 Board meeting.
- Exhibit 3 Proposed new policies: 1109 Rules for Oral Proceedings and 1110 Requests for Declaratory Opinions—for first reading.
- Exhibit 4 Proposed amendment to Board Policy 301.0806 Foundation Activities.

EXHIBIT 1

August 16, 2006

601.02 FRESHMAN ADMISSION REQUIREMENTS FOR UNIVERSITY SYSTEM INSTITUTIONS

The high school course requirements set forth below are applicable to students graduating from high school. Institutions will develop equivalent standards for out-of-state applicants, earlier high school graduates and other applicants not covered by this policy.

Any student who was not eligible for regular admission and who has not successfully completed the Summer Developmental Program must attend an accredited institution of higher learning other than those under the governance of the Board of Trustees and must attain a "C" average (2.0 GPA on a 4.0 scale) in the following 24 transferable semester credit hours to be eligible to transfer to an IHL institution:

6 semester hours	English Composition
3 semester hours	College Algebra or above
6 semester hours	Laboratory Science
9 semester hours	Transferable Electives

All other transfer students are subject to the following requirements:

A. HIGH SCHOOL COURSE REQUIREMENTS (College Preparatory Curriculum)

<u>Subject</u>	<u>Carnegie Units</u>	<u>Contents and Remarks</u>
English	4	All must require substantial communication skills components (i.e., reading, writing, listening, and speaking).
Mathematics	3	Includes Algebra I, Geometry, and Algebra II. A fourth class in higher level mathematics is highly recommended.
Science	3	Choice of Biology, Advanced Biology, Chemistry, Advanced Chemistry, Physics, and Advanced Physics or any other science course with comparable rigor and content. One Carnegie unit from a Physical Science course with content at a level that may serve as an introduction to Physics and Chemistry may be used. Two of the courses chosen must be laboratory based.
Social Studies	3	Courses should include United States History (1 unit), World History (1 unit with substantial geography component), Government (1/2 unit), and Economics (1/2 unit) or Geography (1/2 unit).
Advanced Electives	2	Requirements may be met by earning 2 Carnegie units from the following areas/courses, one of which must be in Foreign Language or World Geography: Foreign Language World Geography 4th year lab-based Science 4th year Mathematics

Computer Applications	1/2	Course should emphasize the computer as a productivity tool. Instruction should include the use of application packages, such as word processing and spreadsheets. The course should also include basic computer terminology and hardware operation.
Pre-High School Units		Algebra I, or first year Foreign Language, or <u>Mississippi Studies</u> taken prior to high school will be accepted for admission provided the course content is the same as the high school course.

B. FULL ADMISSION

Full admission will be granted to the following:

- (1) All students completing the College Preparatory Curriculum (CPC) with a minimum of a 3.20 high school grade point average (GPA) on the CPC; or
- (2) All students completing the College Preparatory Curriculum (CPC) with (a) a minimum of a 2.50 high school GPA on the CPC or a class rank in the top 50%, and (b) a score of 16 or higher on the ACT (Composite); or
- (3) All students completing the College Preparatory Curriculum (CPC) with (a) a minimum of a 2.00 high school GPA on the CPC and (b) a score of 18 or higher on the ACT (Composite); or
- (4) NCAA Division I standards for student athletes who are "full-qualifiers" are accepted as equivalent to the admission standards established by the Board.

In lieu of ACT scores, students may submit equivalent SAT scores. Students scoring below 16 on the ACT (Composite) or the equivalent SAT are encouraged to participate in the Year-Long Academic Support Program during their freshman year.

C. ACADEMIC PLACEMENT RESULTING FROM VARIOUS DEFICIENCIES

Those Mississippi residents who applied and failed to meet Full Admission Standards along with any Mississippi high school graduate regardless of academic performance may, as a result of review, be admitted to the summer or fall semester.* The ACT is not a requirement in this category. The review shall involve a consideration of high school performance, ACT scores (if available), placement testing, special interests and skills as well as other noncognitive factors. The review shall result in placement in one of the following categories:

1. Full Admission

As a result of the review, students in this category may be placed as if admitted under Section B. In addition, students may be required to enroll in selected college level courses in science and social science equivalent to high school courses in which their background is inadequate. These courses will yield institutional credit.** Other students in this category may be required to participate in the Year-Long Academic Support Program.

2. Full Admission with Academic Deficiencies

Students who have not demonstrated adequate readiness in English or Reading or Mathematics will be granted Full Admission with Academic Deficiencies to the Summer Developmental Program. This is an intensive program that concentrates on those high school subject areas (English, Reading, and Mathematics) that are applicable to success in first-year college courses. These courses carry institutional credit.** Students who successfully complete the summer program, by passing developmental English, developmental Mathematics, developmental Reading and the Learning Skills Laboratory courses, will receive admission to the fall term with mandatory participation in the Year-Long Academic Support Program. Students who fail to successfully complete the Summer Developmental Program are not eligible for enrollment in the regular academic year and will be counseled to explore other post-secondary opportunities, including those offered by community colleges.

D. YEAR-LONG ACADEMIC SUPPORT PROGRAM

This program is designed to assist those students admitted with academic deficiencies, as well as other volunteer students, with their freshman courses. The Year-Long Academic Support Program will consist of classroom, individual, and computer-assisted instruction along with career counseling in a laboratory setting. The Program carries institutional credit.**

***Non-resident students who do not qualify for Full Admission may be considered for admission under this category through special requirements set by the Board of Trustees and available from each institution.**

****Institutional credit courses do not count toward graduation but carry all other academic requirements.**

EXHIBIT 2

August 16, 2006

Real Estate & Facilities items that were approved by the IHL Board staff subsequent to the July 19, 2006 Board meeting in accordance with Board Policy 901.03 Facilities Staff Responsibilities.

MISSISSIPPI UNIVERSITY FOR WOMEN

The Real Estate & Facilities Committee Chairman and Board staff approved the bids and the award of a contract to the lower of two bidders, Burks Mordecai Builder, Inc., in the amount of \$798,000 for IHL #204-129, Eckford Hall Renovations. Funds are available from Federal appropriations for the Department of Health and Human Services in the amount of \$992,000.

UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

The Real Estate & Facilities Committee Chairman and Board staff approved the bids and the award of a contract to the lowest of five bidders, Blanchard Mechanical Contractors, Inc., in the amount of \$1,912,000 for IHL #209-435 "D", Guyton Building Expansion. Funds are available in the amount of \$3,000,000 from Grants and Contracts, Federal Funds and Medical Center Educational Building Corporation Bonds.

ALCORN STATE UNIVERSITY

The Board staff approved Change Order 2 in the amount of \$12,760 with an additional 15 days to the contract for GS #101-227, Dining Facilities Pre-Planning and requested approval by the Bureau of Building, Grounds and Real Property Management. Funds are available from House Bill 1634, Laws of 2006.

MISSISSIPPI UNIVERSITY FOR WOMEN

The Board approved the contract documents for GS #104-154, Storm Drainage Project, and requested approval by the Bureau of Building. Approval was also requested of a retention pond feasibility study in the amount of \$1,800. Funds are available from Senate Bill 2988, Laws of 2003, in the amount of \$500,000.

The Board staff approved the university's request of a second phase inspection for GS #104-149, Poindexter Pre-Planning, and requested approval by the Bureau of Building. The inspection consisted of destructive sampling in certain locations to investigate potentially hidden or concealed asbestos. Funds are available in the project budget.

MISSISSIPPI STATE UNIVERSITY

The Board staff approved the Schematic Design and Design Development Documents for GS #105-314, Middleton Hall, Roofing and Waterproofing, and requested approval by the Bureau of Building. Funds are available from Senate Bill 2010, Laws of 2004, in the amount of \$750,000

The Board staff approved the Contract Documents for GS #113-107, Mississippi Veterinary Research & Diagnostic Laboratory Landscaping, Pearl, Mississippi, and requested approval by the Bureau of Building to advertise for the receipt of bids. Funds are available in the project budget.

The Board staff approved Change Order 3 in the amount of \$27,173 with 15 additional days to the contract time for GS #105-278, Lee Hall Renovations, Phase II, and requested approval by the Bureau of Building. Funds are available in the project budget in the amount of \$4,170,258.44 from Senate Bill 3254, Laws of 1998; House Bill 1675, Laws of 1999; Senate Bill 3158, Laws of 2001; Senate Bill 3197, Laws of 2002, and university funds.

The Board staff concurred with the recommendation from the project professionals, Pryor and Morrow, to engage the services of Wiss, Janney, Elstner Associates, Inc., as specialist with expertise in exterior stabilization for a fee not to exceed \$18,500 on GS #105-315, Bowen Hall Waterproofing. Funds are available from Senate Bill 2010, Laws of 2004.

The Board staff approved Change Order 5 in the amount of \$63,891.76 to the contract of Inman Construction for IHL #205-207 C, Roy H. Ruby Residence Hall. Funds are available from the Mississippi State University Educational Building Corporation.

The Board staff approved Change Order 1 for GS #105-303, 2003 ADA Program in the amount of \$10,792 with an additional three days to the contract of Triangle Maintenance Service, LLC, and requested approval by the Bureau of Building. Funds are available in the amount of \$395,000 from Senate Bill 3197, Laws of 2002.

The Board staff approved Change Order 5, which adds \$164,917.05 to the contract of Inman Construction Company, for IHL #205-210, New Residence Hall Complex, Phase II. The budget was increased to \$40,732,000. Funds are available from Mississippi State University Educational Building Corporation.

The Board staff approved Change Order 6 which adds \$40,137.74 to the contract of Inman Construction Company, for IHL #205-210, New Residence Hall Complex, Phase II. The budget was increased to \$40,732,000. Funds are available from Mississippi State University Educational Building Corporation.

UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

The Board staff approved Change Order 1 in the amount \$3,000 with an additional 45 calendar days to the contract of McGuffie Painting for IHL #209-492, Repaint Overhead Crosswalks '04. Funds are available in the project budget from interest income.

The Board staff approved the Program Documents prepared by Simmons Associates for GS #109-186, New Teaching Facility, and requested approval by the Bureau of Building. Funds are available in the project budget in the amount of \$4,000,000 from Senate Bill 2988, Laws of 2003.

The Board staff approved the university's request for a three-year extension on the 16th Amendment to the Jackson Medical Mall Foundation/University Medical Center lease for the Mississippi Circle of Care. The annual rent is \$11,025.36 and the total cost of the three-year extension will be \$33,076.08 for the period August 1, 2006, through July 30, 2009.

UNIVERSITY OF SOUTHERN MISSISSIPPI

The Board staff approved Change Order 1 in the amount of \$13,544.26 for GS #108-241, Mannoni Performing Arts Center, and requested approval by the Bureau of Building. Funds are available in the project budget.

The Board staff approved the Schematic Design Documents prepared by Eley and Associates for GS #108-230, Polymer Institute Product Process Unit/Building, and requested approval by the Bureau of Building. Funds are available from Senate Bill 2988, Laws of 2003, in the amount of \$2,000,000.

EXHIBIT 3

August 16, 2006

1109 Rules for Oral Proceedings

The Board hereby adopts the following Model Rule on Rulemaking Oral Proceedings which applies to all oral proceedings held before the Board for the purpose of providing the public with an opportunity to make oral presentations on proposed new policies and bylaws and any amendments to the Board's *Policies and Bylaws* pursuant to the Administrative Procedures Law.

1. Scope

These rules apply to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before the Board pursuant to the Administrative Procedures Law.

2. When an Oral Proceeding will be Scheduled on a Proposed Rule

Where an oral proceeding has not previously been held or scheduled, the Board will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.

3. Format of Request

- a. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches).
- b. The request may be in the form of a letter addressed to the Board or as a pleading filed with a court.
- c. Each request must include the full name, telephone number, and mailing address of the requestor(s).
- d. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

4. Notification of Oral Proceeding

The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.

5. Presiding Officer

The Agency Head or designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

6. Public Presentations and Participation
- a. Public participation shall be permitted at oral proceedings in accordance with the following sections.
 - b. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
 - c. Persons wishing to make oral presentations at such a proceeding shall notify the Board at least three business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not previously contacted the Board.
 - d. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
 - e. The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
 - f. Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
 - g. There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the partisan's time where the orderly conduct of the proceeding so requires.
7. Conduct of Oral Proceeding
- a. Presiding Officer
The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall (i) call proceeding to order; (ii) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the Board for the proposed rule; (iii) call on those individuals who have contacted the Board about speaking on or against the proposed rule; (iv) allow for rebuttal statements following all participants' comments; (v) adjourn the proceeding.
 - b. Questions
The presiding officer, where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

- c. Physical and Documentary Submissions
Physical and Documentary Submissions. Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Board, part of the rulemaking record, and are subject to the Board's public records request procedure.
- d. Recording
The presiding officer may record oral proceedings by stenographic or electronic means.

1110 Requests for Declaratory Opinions

- 1. Scope of Rules
These sections set forth the Board's rules governing the form and content of requests for declaratory opinions and the Board's procedures regarding the requests as required by Mississippi Code § 25-43-2.103.
- 2. Persons Who May Request Declaratory Opinions
 - a. Any person with a substantial interest in the subject matter may make a request to the Board for a declaratory opinion by following the specified procedures.
 - b. "Substantial interest in the subject matter" as used in this policy means: that a party is directly affected by the Board's administration of the laws within the Board's primary jurisdiction.
 - c. "Primary jurisdiction of the Agency" as used in this policy means the Board has a constitutional or statutory grant of authority in the subject matter at issue.
- 3. Subjects Which May Be Addressed In Declaratory Opinions
 - a. The Board will issue declaratory opinions regarding the applicability to specified facts of:
 - 1. a statute administered or enforceable by the Board,
 - 2. a rule promulgated by the Board, or
 - 3. an order issued by the Board.
- 4. Circumstances In which Declaratory Opinions Will Not Be Issued
 - a. The Board may, for good cause, refuse to issue a declaratory opinion. Without limiting the generality of the foregoing, the circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:
 - 1. the matter is outside the primary jurisdiction of the Board;
 - 2. lack of clarity concerning the question presented;
 - 3. there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
 - 4. the statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

5. the facts presented in the request are not sufficient to answer the question presented;
 6. the request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
 7. the request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute or order on which a declaratory opinion is sought;
 8. no controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute, rule, or order;
 9. the question presented by the request concerns the legal validity of a statute, rule or order;
 10. the request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
 11. no clear answer is determinable;
 12. the question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
 13. the answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
 14. the question is currently the subject of an Attorney General's opinion request; or
 15. the question has been answered by an Attorney General's opinion.
- b. A declaratory opinion will not be issued where a similar request is pending before this agency, or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
 - c. A declaratory opinion will not be issued if it may adversely affect the interests of the State, the Board, or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise.
 - d. Where a request for a declaratory opinion involves a question of law, the Board may refer the matter to the State Attorney General.
 - e. A declaratory opinion will not be issued where the question involves eligibility for a license, permit, certificate or other approval by the Board or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.
5. Form of the Request for a Declaratory Opinion
 - a. Written Requests Required. Each request must be printed, typewritten or in legible handwriting. Each request must be submitted on standard business letter-size paper (8 1/2" by 11"). Requests may be in the form of a letter addressed to the Board or in the form of a pleading as might be addressed to a court.

- b. Where to Send Requests. All requests must be mailed or delivered to the Board at 3825 Ridgewood Road, Jackson, Mississippi 39211. The request and its envelope shall clearly state that it is a request for a declaratory opinion. Oral and telephone requests are unacceptable.
 - c. Name, Address and Signature of Requestor. Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request. The signing party shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative or judicial tribunal.
 - d. Single transaction. A request must be limited to a single transaction or occurrence.
 - e. Question Presented. Each request must contain the following:
 - 1. a clear identification of the statute or rule at issue;
 - 2. the question for the declaratory opinion;
 - 3. a clear and concise statement of all facts relevant to the question presented;
 - 4. the identify of all other known persons involved in or impacted by the factual situation causing the request including their relationship to the facts, name, mailing address and telephone number; and
 - 5. a statement sufficient to show that the person seeking relief has a substantial interest in the subject matter.
 - f. The terms of the proposed opinion suggested by the requestor may be submitted with the request or may be requested by the agency;
 - g. Memorandum of Authorities. A request may contain an argument by the requestor in support of the terms of the proposed opinion suggested by the requestor. The argument may be submitted in the form of a memorandum of authorities, containing a full discussion of the reasons and any legal authorities, in support of such position of the requestor. The agency may request that the argument and memorandum of authorities be submitted by any interested party.
6. Time for Agency's Response
- a. Agency's Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Board shall, in writing:
 - 1. issue an opinion declaring the applicability of the specified statute, rule, or order to the specified circumstances;
 - 2. decline to issue a declaratory opinion, stating the reasons for its action; or
 - 3. agree to issue a declaratory opinion or a written statement declining to issue a declaratory opinion, by a specified time but no later than ninety (90) days after receipt of the written request.
 - b. When Period Begins. The forty-five (45) day period shall begin on the first State of Mississippi business day that the request is received by the Board.

- c. Opinion Not Final for Sixty Days. A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the Board may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

7. Procedure after Request for Declaratory Opinion Received

 - a. Notice by Agency. The Board may give notice to any person that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from persons other than the requestor.
 - b. Notice by Requestor. The requestor, or his attorney, shall append to the request for a declaratory opinion a listing of all persons, with addresses, known to the requestor who may have an interest in the declaratory opinion sought to be issued, and shall mail a copy of the request to all such persons. The requestor or his attorney shall certify that a copy of the request was mailed to all such persons together with this statement: "Should you wish to participate in the proceedings of this request, or receive notice of such proceedings or the declaratory opinion issued as a result of this request, you should contact the Board within twenty days of the date of this request."

8. Hearings at the Discretion of the Agency

 - a. Provision for Hearing. If the Board in its sole discretion deems a hearing necessary or helpful in determining any issue concerning a request for a declaratory opinion, the Board may schedule such a hearing. Notice of the hearing shall be given to all interested parties unless waived. Notice mailed by first class mail 7 calendar days prior to the hearing shall be deemed appropriate.
 - b. Proceedings at the Hearing. The procedure for conducting a hearing, including but not limited to the manner of presentation, the time for presentation, and whether and how evidence may be taken, shall be within the discretion of the Board.
 - c. Persons Appearing at the Hearing. The Board shall allow the requestor to participate in any hearing. The Board may allow any other persons or entities to participate in the hearing.

9. Public Availability of Requests and Declaratory Opinions.

Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

EXHIBIT 4

August 16, 2006

301.0806 UNIVERSITY FOUNDATION/AFFILIATED ENTITY ACTIVITIES

Purpose of Foundations and Similar University Affiliated Entities:

The requirements of this policy are to apply to all university development foundations, research foundations, athletic foundations, alumni associations and all other similar entities affiliated with any of our eight state universities. The Board of Trustees recognizes the role of university foundations and other similar affiliated entities throughout the nation have in providing additional financial support for their institutions so they can achieve a level of excellence not possible through state funding and tuition alone. The Board of Trustees recognizes and appreciates the contributions made to higher education by ~~the~~ such foundations and similar entities affiliated with the institutions of the Mississippi State Institutions of Higher Learning, and that their goal is not to replace necessary support from the state. The Board of Trustees acknowledges that the private, independent nature of foundations and similar affiliated entities provides flexibility to the institutions of the Mississippi State Institutions of Higher Learning in fiscal management and responsiveness.

The purpose of foundations and other entities affiliated with institutions of the Mississippi State Institutions of Higher Learning is to engage in raising funds and other activities consistent with the mission and priorities of the institutions. These ~~foundations~~ entities are expected to have mission statements relevant to this purpose and to adopt policies, plans, and budgets to achieve their missions. Each institutionally affiliated foundation entity is authorized to accept gifts, restricted and unrestricted, on behalf of that institution. The institution agrees, through its chief executive officer, to keep the foundation/affiliated entity ~~appraised~~ apprised of its needs and priorities; the foundation/affiliated entity agrees to consider and communicate to the institution its ability and plans to fund those needs and priorities and accept or solicit gifts that are consistent with the institution's mission, goals, or objectives.

Public Confidence:

The Board of Trustees recognizes it cannot and should not have direct control over institutionally affiliated foundations/entities. These foundations/affiliated entities must be governed separately to protect their private, independent status. However, because the Board of Trustees is responsible for ensuring the integrity and reputation of the university system and its institutions and programs, it must be assured that any affiliated entity/foundation will adhere to ethical standards appropriate to such organizations in order to assure the public that it is conducting its mission with honesty and integrity.

Therefore, each Institutional Executive Officer should ensure that the foundation university development foundations, research foundations, athletic foundations, alumni associations and any other similarly affiliated entities ascribes to the following requirements in order to enhance public confidence in the foundation/entity:

- Compliance with state and federal law applicable to such organizations;
- Maintenance of financial and accounting records in accordance with Generally Accepted Accounting Principles. These records shall be audited annually by a Certified Public Accounting firm and the records shall be maintained separately from the records of the affiliated institution;
- Submission of the annual audited financial statements by each November 1 [to allow compliance with Governmental Accounting Standards Board (GASB) 39] along with a list of foundation/entity officers, directors, or trustees, through their institution's chief executive officer, to the Commissioner of Higher Education;
- Submission of an annual report providing a detailed list of supplemental compensation which was submitted to the university for the purpose of providing additional compensation to administrators, faculty, athletic staff, and other employees; and
- No form of compensation may be paid or provided to an Institutional Executive Officer by any university foundation or affiliated entity without prior approval of the Board of Trustees of State Institutions of Higher Learning. The request for approval shall come through the Commissioner to the IHL Board; and*
- Encourage formal communications between members of the Board of Trustees and directors of the various foundations/entities, to include periodic meetings between Board members, the Chief Executive Officer of the Foundations' /entities' Board of Directors, the Commissioner and the Institutional Executive Officers.

The relationship between the institutions of the Mississippi State Institutions of Higher Learning and the foundations/entities supporting those institutions must be based on a recognition of and respect for the private and independent nature of the foundations/entities. Transactions between an institution and its foundation/affiliated entity must be consistent with the foundation's/affiliated entity's mission to assist and benefit the institution and must also be consistent with the institution's obligation to hold, manage, and use public property and resources to benefit the public interest. To ensure that the institution/foundation relationship is clearly defined, each institution shall consummate a formal written operating agreement with its affiliated foundations/entities. Therefore, each university must enter into an operating agreement with its development foundation(s), research foundation(s), athletic foundation(s), alumni association(s) and any other similar university affiliated entities. To ensure the independence of the foundation affiliated entities, no employee of the Mississippi State Institutions of Higher learning shall hold a voting position on an institutionally affiliated foundation entity board. The Board of Trustees may allow exceptions to this restriction if needed to comply with NCAA

requirements or other purposes. Senior administrators of the institution should only participate on the foundation affiliated entity's board in an ex-officio capacity.

Operating Agreement:

Each institution of the Mississippi State Institutions of Higher Learning and their development foundations, research foundations, athletic foundations, alumni associations and any other similar affiliated foundations entities shall enter into a public, written operating agreement that outlines the relationship between the two entities. This agreement shall be reviewed for approval by the Board of Trustees at least every five (5) years, or whenever the operating agreement is changed, and include:

- The services and benefits the institution and foundation affiliated entity provide each other and any payments made, including whether institutional assets are managed by the foundation affiliated entity;
- How gifts, grants and endowments are accepted and accounted for;
- That gifts made to an institution of the Mississippi State Institutions of Higher Learning be accounted for and ownership maintained by that institution; that gifts made to an institutionally affiliated foundation entity be accounted for and ownership maintained by that foundation entity;
- That the foundation affiliated entity has a conflict-of-interest policy;
- That no salary supplements form of additional compensation for an Institutional Executive Officer will be underwritten or increased by an affiliated foundation/entity without being reported to the Board of Trustees prior approval of the Board of Trustees of State Institutions of Higher Learning. The request for approval shall come through the Commissioner to the IHL Board;
- That institutional input will be sought from the Institutional Executive Officer before defining the major needs and priorities for foundation /affiliated entity consideration; and
- That other requirements stated or implied by this policy have been followed.

Board of Trustees' Authority:

As provided in Miss. Const. Art. 8, Section 213-A, the Board of Trustees has authority over the institutions of the Mississippi State Institutions of Higher Learning. Under such authority, the Board of Trustees has responsibility for ensuring the public interest is served by any individual or organization established to support an institution of the Mississippi State Institutions of Higher Learning. While the Board of Trustees cannot control or direct individuals or private organizations, it has the full authority to control the activities of its agents and agencies in their relationships with such individuals or organizations. Such control extends to the regulation of participation in those organizations and the use of a name, logo, or other insignia identified with the institutions of the Mississippi State Institutions of Higher Learning.