Chair Andrew McMichael called the meeting to order at 3:45 p.m. The following members were present: Lawrence Alice, John Ali, Fehran Atici, Mustafa Atici, Nedra Atwell, Lynn Austin, Marty Bonam, Tim Brotherton, Barbara Burch, Stuart Burriss, Mike Carini, Walter Collett, Thad Crews II, Robert Dietle, Freda Embry, Sam Evans, Jane Fife, Malia Formes, Elmer Gray, Deana Groves, Joe Hardin, Anthony Harkins, Michelle Hollis, Nezam Iraniparast, Kaveh Khatir, Soleiman Kiasatpour, Amy Kruli, James LeTourneau, Deborah Lively, Karen Mason, Kathleen Matthew, Marge Maxwell, Andrew McMichael, George Musambira, Dan Myers, David Neal, Johnston Njoku, Laurin Nothesen, Anne Oryekwuluje, Lester Pesterfield, Katharine Pettit, Keith Philips, Heather Pulliam, Sylvia Pulliam, Eric Reed, Jeffrey Samuels, J. Krist Schell, Bud Schlinker, Roger Scott, Peter Sepanski, Julie Shadoan, Douglas Smith, Mason Stevenson, Samanta Thapa, Tom Tutino, Stacy Wade, Judy Walker, Carol Watwood, Jeff Willis, Mary Wolinski, John White, Judy Woodring. Alternates present were: ?? for Barbara Brindle, ?? for Dana Emberton-Tinnes, Jil Onedera for Cynthia Mason, Melissa Stewart for Laura McGee, Ed Yager for Roger Murphy, Kumiko Nemoto for John Musalia, Tammie Stenger-Ramsey for Peter St. Pierre, ?? for Saundra Starks. Members absent were: Greg Arbuckle, Mike Binder, John Benaguro, John Bruni, Scott Dobler, Richard Dressler, Blaine Ferrell, Jerry Gotlieb, Kirk Heriot, Pamela Jukes, David Lee, Minwoo Lee, Terrence McCain, James McCaslin, Joshua McCubbins, Timothy Mullin, Katrina Phelps, Gary Ransdell, Kara Ratliff, Robert Reber, Sherry Reid, Vernon Sheeley, Robert Sims, Nevil Speer.

Approval of the Minutes

The Minutes of OCTOBER 20, 2005, were approved with corrections.

Report from the President

Chair McMichael submitted the following written report:

Senate Chair Report on the “Missing” $600,000

There has been much discussion surrounding the so-called “missing” $600,000 and the so-called “Health Insurance Overflow Fund.” After the article in the Herald Tuesday, November 15, Faculty Regent Robert Dietle and I decided to meet with Ann Mead, Chief Financial Officer (CFO) and Assistant to the President for Economic Development. In that meeting, which lasted for more than an hour, Ms. Mead attempted to explain to us about the fund, and what happened to the money. What follows is my explanation of the facts culled from that meeting, a long-ish phone conversation, and documents provided to us by Ms. Mead. After that, I present my analysis of the situation. In short, there is not $660,000 missing from the overflow fund in the sense that nobody knows what happened to the money. However, $660,000 was taken out of that account at the end of FY '05, as was an additional $385,000 in FY '04, and as will another $70,000 this year (FY '06). This is something about which all WKU employees should be concerned. Because my report on this issue is too long for an oral presentation in the Senate,
meeting Thursday, I am submitting my written report, followed by my analysis of the problems, here.

First, some background. Most of us know this, but I think it is helpful to begin this way. I also ask for your patience. I am neither an accountant—nor a mathematician—so I am going to put this in basic lay terms that I understand. If you have chosen to have health care through WKU, you contribute to the WKU health plan, with the amount depending on what level, or option, you have chosen. WKU also contributes to the plan, and the ratio is roughly 20% by the participant, and 80% by WKU. Those who waive the insurance plan still get half of the University's contribution placed in a flexible spending account from which they can be reimbursed over the course of the year. In the literature given to us by WKU, and reconfirmed in yearly mailings, we are told that that 80% is part of the compensation package that includes our salary. Each month both WKU and the employee contribute some amount to the plan. Each month claims are made against that amount. For the past three years the claims paid out have not risen to the level of the amount put in. That extra money is put into the so-called "overflow fund" in case the plan has to pay out expenses that exceed the input. This could be as simple as extra routine claims, or as complex as some kind of catastrophic care. Those are the basics, and this setup is typical in a healthy self-insurance plan that generates a reserve as a hedge against a bad claims year.

From there it should be understood that there is not anything like a "Health Insurance Overflow Fund" in the sense that there is money residing in a separate fund. Instead, the extra money goes into the University's general overflow fund, and is assigned an account code. Despite what we have been told there is no real protection assigned to that fund other than a general sense that it should be used for health care. But no real rules exist that prevent the University from dipping into that fund for other purposes. If, for instance, the University wanted to use that money for some project that it felt was important, it could do so without consulting the University Benefits Committee or the faculty or staff who contribute to that fund, and it has done so in the past. At the end of each year the CFO and others assess how many health insurance claims have been made versus how much has been contributed by WKU and the employees, and then decide what's left over. In the first few years there was a shortfall, and money was moved from elsewhere in the University budget to make up for that. For the past several years there has been an overflow and the idea of a "Health Insurance Overflow Fund" was born.

In FY 2004 when Fletcher's administration announced a budget cut and WKU had to return money to the state, we all began looking for extra funds in our divisions. In the end-of-year assessment of the so-called "Health Insurance Overflow Fund," when the inputs were balanced against the outlays, an additional $385,000 was subtracted to send to Frankfort for budget cuts. At the time, that equaled about 20% of the entire fund. Depending on who in the administration explains the accounting, that was either a one-time cut that was "not reassigned" to the fund, a cut that was funded by increasing employer contributions to the fund and then taking money from that contribution and sending it back to the state, or a recurring cut that comes from reducing the employer contribution to the flex program. If the money comes from a cut to the flex program then this is in fact a recurring loss by the health insurance fund rather than a one-time cut. By way of comparison with some divisions on campus Information Technology gave back $164,000, Facilities Management returned $79,000 and Athletics returned $52,000. One unit, Student Affairs, had a non-recurring cut of $166,000 but then a recurring credit of $30,000 while Institutional Advancement had a non-recurring cut of $73,000 and a recurring credit of $16,000 during the budget cuts.
In discussions with Ms. Mead and others, the administration has maintained that money was not taken out of the “Health Insurance Overflow Fund,” it’s just that money was not put back in when the reassessment was completed in FY 2004. In FY 2005, which just ended, another $660,000 was taken out (or not put back in) and returned to the University to re-pay the money that the university used to support the fund when it wasn’t solvent.

At the end of FY 2006 (next July), another $70,000 “will not be reassigned” due to the newly-created “Health and Wellness Coordinator” position.

So, including FY 07, some $1,115,000 has been “not reassigned” to the so-called “Health Insurance Overflow Fund” over the past several years. Two of these reassignments (The $660k and the $385k) were made without informing the University Benefits Committee—the group that is supposed to have oversight of the fund. Furthermore, other actions have been taken with regard to that fund without the knowledge of the University Benefits Committee.

I think that employees of WKU need to ask some hard questions of the administration regarding this issue, and here’s my analysis of the problems surrounding this issue:

1. As a non-economist I don’t see much of a difference between “not reassigning” and “taking out.” In the end, every dollar “not reassigned” to the so-called “Insurance Overflow Fund” for some reason other than health insurance claims is a dollar that can’t be used by that fund for health insurance claims. In the end that money has been taken away from the fund. To my mind, the distinction being made is one that occurs because the fund is not separate from other university funds, and therefore that distinction—unconsciously made or not—allows the University to play fast and loose with our insurance funds.

2. I’m also very disturbed by the comments of some in the administration that the money in the overflow fund isn’t ours anyway, so the University should be able to use it as it pleases. We are told—repeatedly—that the money contributed to insurance is part of our compensation package. That, it seems to me, makes it ours in the sense that it is compensation money that is being maintained for health insurance on our behalf. Indeed, if you choose not to participate, money is saved for you in another fund, to be used by you for insurance claims over the course of the year. Yet the overflow fund, which should be there specifically to cover claims, has been raided three times that we know of in the past few years for various items.

3. It is also very problematic that in the case of the $385,000 given back for the budget cuts and the $660,000 returned to the general fund, the University Benefits Committee—the group that supposedly has oversight over the fund—was never consulted or even informed ahead of time of these transfers. How many other transfers are made out of other funds without the knowledge of the committees that oversee those funds?

4. Additionally, the CFO has taken the step of creating an account for the Insurance Fund at BB&T, and has begun to put overflow money into that account. Admirable, but she did it, again, without consulting first the University Benefits Committee that is supposed to have oversight. Moreover, that account is under her sole control—again making it subject to the whims of the administration. It should also be noted that the BB&T account is not the same thing as a
Foundation Account. The BB&T account is a simple bank account not subject to any real oversight except by the same people who have taken money out of the fund for the past few years. A Foundation Account is a managed fund that is geared for growth and that can be drawn on only under certain circumstances. Given the current rate of growth of the overflow money, a Health Insurance Foundation Account could be grown to the point that the interest generated could be used to offset employee/employer contributions to the insurance fund. Also, it couldn't be taken from to fund things other than health care claims.

5. As noted, $660,000 was taken out of the fund to make up for money contributed to it by the University to allow the self-insurance program to pay claims. In essence, the University now regards that money as a loan to the insurance program. I think that faculty and staff should ask some hard questions of the University regarding what other units and divisions have been given money to make up for shortfalls and then not ever asked to pay the money back. Is this now to be the model for funding here—if your unit gets extra money because of a shortfall will that unit at some future—and seemingly random—point have money extracted from its account? I think that the rationale that it was a loan is one that, again, allows the university to raid a fund that is not theirs, by their own standards of what our compensation packages are.

6. In FY 2004 $385,000 was returned to the state as part of the budget cuts. Approximately 20% of the “Health Insurance Overflow Fund” was “not reassigned.” In discussions with one University administrator I was told that in several decades of doing finances at the University level, this person knew of no other instance where a health insurance fund was raided to make up for a budget cut. To take 20% of the insurance overflow money—again, our contributions to the fund from our compensation packages—and send it back to the state without consultation on the part of the University Benefits Committee indicates that the management of that fund should be more greatly restricted.

7. I also think that the current management of the funds has serious implications for WKU’s plan to go to a system of self-retirement. Before we sign on to that, we ought to think very carefully about how our current insurance funds are being used, and what this might mean for the ways in which our retirement funds would similarly be used.

The Faculty Regent will also discuss his perceptions of the issue at the Senate meeting tomorrow, Thursday November 17. This constitutes my report and to the University Senate, and the university community, on the “missing $600,000” and the Health Insurance Overflow fund, as well as my analysis of the situation.

Andrew McMichael
Chair, University Senate

Chair McMichael reported the following:

1) SGA evaluations are coming up. Please distribute those.
2) The Drop/Add policy. It used to be the case that faculty could drop students for non-attendance. This was a policy originally passed by the faculty. It was taken away at the behest of the council of academic deans. Never was this passed by the University Senate. The Chair was very concerned that University Senate rights are being tampered with. The Council for
Academic Deans does have a web page but no minutes or agendas are posted there. This is more concerning since faculty have no knowledge about what is being discussed or decided.

3) Back in April, professional liability insurance motion was passed. No action from the administration on the approved motion.

4) Have heard nothing back from the President concerning his meeting with other presidents and KTRS

Report from the Vice Chair

Vice Chair, John All reported:

1) Robert Dietle was reelected as faculty regent. Thanks to all who helped with process.
2) No response on faculty liability motion. Push for a response by next senate meeting.

Report from the Faculty Regent

The Faculty Regent, Robert Dietle, reported that the Board of Regents (BOR) meets Saturday morning with the afternoon spent in various dedication ceremonies for the Guthrie Overlook, the new Diddle Statue, etc. Regent Dietle went on to discuss two issues:

1) Capital projects
   WKU has much construction under way. There is a long list of buildings to replace or renovate. The BOR has been asked to pass a campus renovation fee. The first two buildings to benefit from this fee would be Van Meter Auditorium and the football stadium. For the university to sell bonds the university has to designate revenue streams for repayment of bonds.

   Regent Dietle was concerned about the issuance of bonds to fund capital projects for three reasons. For the last several years WKU has financed its initiatives through unexpected enrollment growth. Our current enrollment growth is flat. A second income source has been the state. That revenue source is also expected to remain flat or even be reduced. Third, WKU has enjoyed the ability to set its own tuition and fee increases. Regent Dietle stated his belief that the Council on Post-Secondary Education is laying groundwork to take control of tuition and fee settings. Thus, if we continue to finance capital projects through sale of bonds, Regent Dietle believes that we will be committing ever more funds from our general budget to capital projects.

2) Health insurance funds
   Regent did meet with Chair McMichael and Ann Mead concerning the "missing" insurance funds. His concerns:
     1) Policy decisions have been made. Money has been shifted out of health insurance to other needs in the university. That money is no longer available to pay health insurance claims. Those decisions were made without consultation and in at least one case without informing the Benefits Committee.
     2) There is a strongly held view that the money paid in is the university’s money and not ours. Every month faculty and staff pay about 20% and university pays 80%. Mead believes that the university payment is still the universities. The
money belongs to us. Before we were self insured, the university had to send a payment to the insurer that included both the 20% and the 80%. Why should the fund be treated any differently because we are self insured? That money is to provide a cushion in case of catastrophic claims. Those monies need to stay available.

3) There is a belief that the faculty and staff owe the university because back in 2000 the fee structures had been set incorrectly and the university dipped into general budget to meet the shortfall. In the eyes of the CFO that is a debt that the health insurance owes to the university. Regent Dietle served on the budget council then. The budget council debated at that time whether available money would be used to support the health plan or put into the salary pool for raises. In the end it was decided that the salary pool would be smaller so that the health insurance would be solvent. In essence then, the faculty and staff covered that deficit ourselves out of their own salary pool. Regent Dietle stated that he retains a letter sent to the faculty by President Ransdell to that effect. Thus it is incorrect to view the money as somehow borrowed from the university.

4) Dietle noted the discussion as it is being presented sets the university and the faculty and staff up as two different things when in fact the faculty and staff ARE the university. Regent Dietle does not see how WE owe the university any money.

**Report from the Provost**

1) Good news. The strategic plan is still being refined. However, there is a commitment to bring faculty salaries to a designated benchmark level which will be at least to the 50 percentile benchmark in the next three years. There is also a commitment to increasing professional development funds by 25 percent.

2) Winter term. Winter term would not happen if it were not supported by faculty. 1871 students enrolled. There is a clear pattern of higher participation by juniors and seniors. About twice as many juniors and seniors have signed up for the term as underclassmen. Most colleges and departments are involved. Most students are in sections that have already made. Ms. Llaves will be in contact concerning whether it has or hasn’t made. We are going to do everything we can to meet needs. Estimates have exceeded hopes.

**STANDING COMMITTEE REPORTS**

**University Curriculum Committee** (Report attached to Agenda)

Academic policy committee reviewing issues unaddressed such as on-line courses.

The UCC agenda is approved by the University Senate.

**Graduate Council** (Report attached to the Agenda)

The Graduate Council agenda is approved by the University Senate.
General Education Committee (Report attached to the Agenda)

The General Education Committee agenda is approved by the University Senate.

Faculty Welfare and Professional Responsibilities Committee (Report as written)

Senator Atwell described going into the survey and playing around with the reporting software, looking at the data by gender and race. She reported that it is possible for one to identify single individuals in departments. In her view that probably should be fixed because it takes away from anonymity.

Chair Wolinski responded that she believed higher participation rates could probably fix part of that problem.

New Business

Senator Reed introduced the following motion:

RESOLUTION CONCERNING THE USE OF HEALTH INSURANCE MONIES

Whereas the University manages self-financed health insurance plans, and

Whereas it is unsound fiscal practice to use monies meant to finance the University’s health insurance plans for purposes other than funding health insurance plans and paying claims,

Be it resolved that the University Senate states its unequivocal opposition to the use of the University’s health insurance contributions and employee premiums for anything other than their intended purpose of funding WKU’s health care plans and reimbursing claims against them, and

The University Senate requests that the Board of Regents create a regulation stating that insurance benefits monies may not be used for anything other than their intended purpose of funding the University’s health care plans and reimbursing claims against them, and

The University Senate urges that the University deposit insurance benefits contributions and employee premiums into an account separate and independent from the University’s General Fund. Funds from such a separate and independent account should only be used to fund the health insurance plans and pay claims against them. A quarterly report on the state of this account should be submitted to the University Benefits Committee.

The University Senate requests that the Administration and the University Benefits Committee implement this plan and report to us on the resolution of this issue as soon as possible.

The motion was seconded by Senator Atwell.
Discussion of the proposal:

Senator Myers: If we are asking that there be no commingling of funds, what happens if the health insurance reserve fund ran out of money?

Senator Reed: I'm not sure but...

Senator Samuels: If I read your document correctly there is a separate account at BB&T and the administration is currently moving money into the account. Is there a way to create a lock box account?

Senator Reed: The reason I kept it a little vague is to allow for alternatives.

Senator Atwell: They increased the premiums on certain faculty members because there was a claim that the fund was in deficit. Yet it was not true. The health fund was not in deficit. Why are they raising funds when there are funds that already?

Vice-Chair All moves an amendment which states that any expenditure from this account must be approved by the benefits committee. Senator Samuels seconds.

Discussion of Amendment:

Senator Myers: According to what we are proposing. Every expenditure would have to be approved by the benefits committee.

Senator White: We are calling it an overflow fund but it is a surplus fund. Solely the university bears the responsibility. Western is bearing the risk for our health.

Senator White moves to postpone the motion definitely until the next meeting. Senator Myers seconded.

Discussion of the motion to postpone definitely:

Dietle: What is the purpose of the postponement?

Senator White: I have not had time to think about this. I have not had time to review this. I would like this 30 days.

Dietle: Whatever we suggest today would not come before the BOR until the January meeting. I think that not continuing debate would be imprudent. This should come before the January meeting.

Motion fails.

Senator Reed: I understand that this requires oversight but I would like to leave it open.
Senator Samuels: Any expenditure needed to be approved.

Senator Samuels moves to amend the amendment: Every expenditure except for insurance claims must be approved by the benefits committee. The motion is seconded by Senator White.

Senator Njoku: Does the benefits committee have the power to do this?

Chair McMichael: Can we save this for discussion of the amended amendment?

Senator Reed: I do not think that we should add loopholes to our requests.

Motion to amend the amendment carries.

Senator Njoku: Does the benefits committee have the power to approve expenditures?

Tony Glisson: The benefits committee only has the power given to it by the president.

Chair McMichael: At this time, do you have that authority?

Tony Glisson: No. There are other expenditures.

Senator All: So the committee does not discuss any expenditures. Tony Glisson: Well, other than the wellness committee. I think that what you are talking about.

Patti Minter: Tony co-chairs the committee. I like this resolution. We have a problem with raiding. This will help the committee deal with this problem. This committee will be discussing how we have been completely circumnavigated. We don’t want to have another problem like we had five years ago. I would ask that you pass the amendment and the resolution.

Alternate Smith: Us vs. Them. It is not the university that is taking the risk. It is our risk since we are the university. We are the university and 2 that the couple’s fees have gone up.

Motion to amend passes.

Discussion of main motion:

Senator Myers: Is there anything in this motion to keep the university to decrease the contribution to the insurance plan?

Senator White: Essentially the university is on the hook if we go dry. From their
situation, it is a no win situation. Second point, how big a surplus fund do you want? At what point do you feel comfortable allowing the university to spend money somewhere else?

Regent Dietle: I would love to see the day that we have to have a debate more than a 15 million-dollar surplus. Basically we are asking that insurance become an auxiliary budget. Housing is auxiliary budget. The university is under restraint. Athletics . . . university cannot dip into the student athletic fee belongs to the athletic department. I would like to see these monies treated the same way. I would like to see us ask to do something that it has done before in other areas.

Motion passes.

Discussion of lifetime ban of Mr. Harriman from the Preston Center:

Senator Neal: Isn’t a lifetime ban extreme? Whoever enacted that punishment? is not that extreme?

Alternate: New procedures should be evaluated after implementation. What are the suggestions for implementation?

Chair McMichael: This is a report that I was asked to place in the minutes of the senate. If you would like to ask about the process for appeals that is a question for FWPR.

Alternate: Which part of the grievance process you were questioning? What didn’t work?

Mr. Harriman: I am not allowed to go into the Preston Center. I am not allowed to talk to members of the PC regarding this incident. Bottom line I was accused by some informants of being hostile and being disruptive. When I asked repeatedly who characterized me in that way, I was never given a reason or the behavior I exhibited. I wanted you to look at what the committee said, what the president said and whether your involvement was of any value?

Regent Dietle: I would just like to remind everybody that this issue went through the grievance process. At both stages: The committees found in Harriman’s favor. Why should we have a grievance process if you win the case but nothing changes?

Senator Neal: So can somebody above Tice change it?

Chair McMichael: Stephen Ray, the new director, can reverse it. I will ask Dr. Tice for a summary of the Harriman case.

Discussion of moving the meeting time in December:

Senator Atwell: At the last meeting we discussed having the meeting in December. She moves to move the December meeting to 2:30 (earlier in the day). It was seconded by Senator Smith.
Call for quorum finds that we still have a quorum.

Senator SGA: It will be directly interfering with students that have classes Monday 3:00. It will interfere my ability to meet.

Senator Atwell: We lose several faculty due to the lateness of the meetings.

The motion fails.

Chair McMichael adjourns the meeting at 5:00pm.

Senator Smith request that the University Senate again ask for faculty, staff, and students to be informed when bomb threats are made. He notes that a bomb threat in MMTH was not disclosed to the people in the building and that faculty and staff were left in the building after it was supposedly evacuated.

Announcements

Respectfully submitted,

Douglas Smith, Secretary

NOTE: The agenda with its attachments for this meeting can be found on the University Senate website: http://www.wku.edu/Dept/Org/FS/meetings.htm