

MEMORANDUM

To Banking Committee
From: Board Office
Subject: ISU Memorial Union Agreement
Date: November 4, 2002

Recommended Action:

Recommend that the Board adopt A Resolution (see G.D. 7) establishing a self liquidating Memorial Union Facility, and approving a Memorandum of Agreement between and among the Iowa State Memorial Union Corporation, the Government of the Student Body at Iowa State University, and the Board of Regents, State of Iowa.

Executive Summary:

The Banking Committee is requested to recommend that the Board adopt a resolution establishing a self liquidating Memorial Union Facility and approving a Memorandum of Agreement among the Iowa State Memorial Union Corporation, the Government of the Student Body at Iowa State University, and the Board of Regents, State of Iowa.

The Iowa State Memorial Union is a separate, non-profit corporation established in 1922. This structure is uncommon among university student union facilities today. The University of Iowa and University of Northern Iowa student unions are currently operated as self-liquidating enterprises within the respective university.

History

The Memorial Union Corporation constructed the original student union facility under agreements originally approved in 1925 by the Board of Education (predecessor to the Board of Regents).

The intent of this agreement was to transfer the Memorial Union to the University once the debts were paid off. Since the original facility was completed in 1928, the Corporation has borrowed funds to construct additions to the building and to make renovations, and the debt has never been paid off in its entirety. The existing principal amount outstanding is approximately \$4.7 million.

It is estimated that modifications needed to bring the Union facility up to current standards may cost as much as \$30 million, a figure well beyond what the Union could itself raise through donations or borrowing.

The resolution by the Government of the Student Body ratifying the proposed agreement, noted that to serve the growing demand students have placed on the Memorial Union it has become necessary to seek alternate sources of management and funding.

Proposed
Agreement

Under the terms of the proposed agreement, the Board of Regents, State of Iowa, would take ownership of Memorial Union property and assume its outstanding debt of approximately \$4.7 million, which is currently being supported by existing fees.

The agreement further specifies that the Board of Regents would delegate to Iowa State University the responsibility for managing and operating the Memorial Union as a resource for the university community at the University.

The Memorial Union Corporation would be dissolved and the Union's Board of Directors would be reorganized. The newly reorganized Board of Directors would be accountable to the University President, and the Union's Executive Director would report to the Vice President for Student Affairs, who would also have responsibility for advising the Union's Board of Directors.

The reorganized Board of Directors would consist of twelve voting members, seven of whom would be students. This Board of Directors would set all policies and priorities for the facility and its programs. The Student Union Board, a student organization comprised of 12 directors and their committees, and 5 advisors, would retain the responsibility for developing programs, activities, and policies for students. The Student Union Board oversees student organizations housed in the Memorial Union.

There is agreement that it is in the best interest of the students, University, and the Memorial Union if the Board of Regents takes ownership of the Memorial Union at this time.

If the Board of Regents assumes the operations, the Memorial Union will be operated as a self-supporting entity, consistent with the provisions of Iowa Code Chapter 262.

Background:

Construction /
Renovation

In 1925, under agreements originally approved by the Board of Education (predecessor to the Board of Regents), the Board allowed the Iowa State Memorial Union Corporation to raise funds to construct a student union facility to serve the students of Iowa State University. This corporate structure was necessary in the beginning because Iowa State University, through the Board of Regents, lacked authority to borrow the money.

The intent of the original agreement was to transfer the Memorial Union to the University once the debts were paid off or at a time when the Board of Regents agreed to assume the remaining debt.

Since the original facility was completed in 1928, the Memorial Union Corporation has borrowed funds to construct various additions to the building, including a parking ramp. In 1978, the last major addition to the Union completed the area between the main building and the parking ramp.

In 1995, the ground floor of the facility (excluding the Bookstore area, which was renovated in 1992) was remodeled. The Memorial Union food service operation area (25,000 square feet) was renovated to provide modern kitchen facilities to support the catering and food service operations of the Union and to provide a food service court operated through a combination of franchising, licensing, and self-operated entities. The renovation also included a total remodeling of student office space (approximately 12,000 square feet) within the Union.

Existing Financing In 2000, the Board approved the issuance of First Mortgage Note, Series 2000, for the purpose of fully refunding the outstanding principal of a Promissory Note dated November 1, 1995. The First Mortgage Note, Series 2000, totaled \$4,890,000. The Note is based on a 20-year amortization schedule with a balloon payment due December 1, 2005.

A first mortgage lien and security interest in the Union's facility are pledged as collateral on the Mortgage Note. In addition, the Union assigned as security for the note, all leases, rents and revenues of the facility.

In assuming the operations of the Memorial Union, the Board of Regents would be assuming the outstanding debt of approximately \$4.7 million.

Student Fees Currently, there are fees per student semester for operations (\$27), debt service (\$3.90), and future improvements (\$5.26). Students have proposed an additional \$15 per student semester fee to be combined with the current debt service and future improvements fees to help finance the proposed renovation.

Statutory Provisions Under the provisions of Iowa Code Chapter 262, the Board is authorized to construct, equip, maintain and operate self-liquidating and revenue producing facilities at the universities; the Board is also authorized to borrow money to construct or improve these facilities.

Analysis:

Student leaders initiated a proposal to transfer the Memorial Union to the University because the current corporate structure does not allow for enough fund raising or bonding ability to provide the extensive renovation of the facilities that the students desire.

The University administration, students, and the current Memorial Union Board agree that the Memorial Union needs to be brought up to current standards, including various building and accessibility codes. Although detailed studies have not been completed, it is estimated these changes may cost as much as \$30 million, a figure well beyond what the Union could itself raise through donations or borrowing.

Under the provisions of the First Mortgage Notes, Series 2000, the Board of Regents may assume the operations and all obligations of the Memorial Union at any time. If the Board assumes the operations, it agrees to operate the facility on a self-liquidating, revenue producing basis until the Notes have been defeased.

Proposed
Agreement

The proposed agreement between Iowa State Memorial Union Corporation, the Government of the Student Body at Iowa State University, and the Board of Regents, State of Iowa addresses the need for a new management structure for the Memorial Union to address the changing needs and changing environment at Iowa State University.

The Memorial Union agrees to dissolve the corporation and transfer all property that it owns to the Board of Regents on January 1, 2003, or as soon thereafter as the appropriate legal documents have been finalized.

The Board of Regents will assume the current outstanding debt of the Memorial Union, accept transfer of the property owned by the Memorial Union and delegate the authority to manage the property as a resource for the University.

Iowa State University is to manage and operate the property as a resource for the University community.

A Union Board of Directors is to be created to set policies and priorities for facility use and student programming; maintain the Student Union Board; and develop By-Laws for the operation of the Union Board of Directors.

The FY 2002 audit report indicates the Memorial Union had revenues of \$8.69 million and expenses of \$8.68 million for a net operating gain of \$14,846. Total net assets (operating, capital and endowment) on June 30, 2002, were \$6.9 million.

The Iowa State Memorial Union will be operated as a self-liquidating and revenue producing facility of Iowa State University. Funding support for renovations includes fund raising through the ISU Foundation and bonding supported by student fees.

Copies of the proposed agreement and the Government of the Student Body (GSB) Senate Order ratifying GSB's approval are attached (pages 6-12). In addition, copies of the resolution, which was prepared by Ahlers Law Firm, are attached (pages 13-16).

The approval of this agreement would align the structure of the ISU Union with that of the other Regent universities. The University of Iowa and University of Northern Iowa student unions are both currently operated as self-liquidating and revenue producing enterprises within the University.

All Memorial Union employees would become employees of Iowa State University under this agreement.

Representatives of the University, Government of the Student Body and the Iowa State University Memorial Union Corporation will be present to provide additional information and answer questions.

MEMORANDUM OF AGREEMENT

between

IOWA STATE MEMORIAL UNION CORPORATION

and

**GOVERNMENT OF THE STUDENT BODY AT IOWA STATE
UNIVERSITY**

and

BOARD OF REGENTS, STATE OF IOWA,

On behalf of

IOWA STATE UNIVERSITY OF SCIENCE and TECHNOLOGY

This Memorandum of Agreement is entered into between the Iowa State MEMORIAL UNION Corporation, a non-profit corporation incorporated under the provisions of Chapter 504A of the Code of Iowa ("MEMORIAL UNION"), the Government of the Student Body at Iowa State University ("GSB") and the BOARD OF REGENTS, State of Iowa ("REGENTS"), on behalf of Iowa State University of Science and Technology ("ISU").

The purpose of this Memorandum of Agreement is as follows:

- A.** The MEMORIAL UNION has a rich history in serving students as a university community resource at Iowa State University since its conception in 1922. At its conception, the MEMORIAL UNION was created as a corporation, classified as a 501(c)(3) entity. As the Iowa State community moves forward, a new management structure must be considered to address the changing student needs and changing environment at Iowa State University.
- B.** This agreement calls for the BOARD OF REGENTS, State of Iowa, to assume the current outstanding debt of the MEMORIAL UNION, accept transfer of the property owned by the MEMORIAL UNION and delegate to Iowa State University the authority to manage the property as a resource for the university

community at Iowa State University. According to the deed, the MEMORIAL UNION will then become property of the BOARD OF REGENTS, State of Iowa.

THEREFORE, the MEMORIAL UNION, GSB, REGENTS and ISU, in consideration of the mutual covenants and promises contained in this agreement, mutually agree that:

- I. The MEMORIAL UNION agrees to dissolve the Iowa State MEMORIAL UNION Corporation and transfer all property, real and personal, that it owns to the REGENTS on January 1, 2003, or as soon thereafter as the appropriate legal documents have been finalized.
- II. The REGENTS, on behalf of ISU, agrees to accept the transfer of property from the MEMORIAL UNION, including all current indebtedness, and delegate to ISU the authority to manage and operate the property as an auxiliary enterprise within the division of Student Affairs at ISU.
- III. ISU and MEMORIAL UNION agree that ISU shall manage and operate the property as a resource for the university community at ISU in the following manner:
 1. The Union management and operations will be subject to the approval of the ISU President.
 2. The Vice President for Student Affairs shall have the following responsibilities pertaining to this agreement and the management of the property transferred pursuant to this agreement:
 - a. The Vice President for Student Affairs will provide an annual performance evaluation of the Union Executive Director with input from the Union Board of Directors. The Vice President for Student Affairs will present the performance evaluation to the Union Board of Directors after its delivery to the Union Executive Director.
 - b. The Vice President for Student Affairs will work with the Union Board of Directors to implement policies and procedures.
 - c. The Vice President for Student Affairs will advise the Union Board of Directors on issues pertinent to the Union.
 - d. The Vice President for Student Affairs will attend the meetings of the Union Board of Directors and provide clerical support for taking an official record of Union Board of Directors meetings.
 - e. The Vice President for Student Affairs will seek additional University general support for the MEMORIAL UNION.
 3. A Union Board of Directors shall be created by the REGENTS, which shall have the following rights and responsibilities:
 - a. Set all policies and priorities for facility use and student programming.

- b. The Union Board of Directors shall continue the Student Union Board ("SUB"), and SUB shall have the authority and responsibility to develop policies regarding student programming, student activities and programming for the MEMORIAL UNION. Upon the execution of this agreement, the Vice President for Student Affairs and the Union Board of Directors will agree upon funding sources for SUB.
 - c. Provide input and advice as to selection of the Union Executive Director.
 - d. Provide feedback to the Vice President for Student Affairs concerning the performance of the Union Executive Director.
 - e. The Union Board of Directors, by a 2/3 vote, may recommend termination of the Union Board of Directors to the REGENTS.
 - f. The Union Board of Directors shall have the sole authority to remove a member of the Union Board of Directors for good cause.
 - g. Develop a set of By-Laws for the operation of the Union Board of Directors.
4. The Union Board of Directors will have the following composition:
- a. Twelve voting members, seven of which will be students, three of which will be Iowa State University alumni, one faculty, and one presidential appointee.
 - b. Alumni, faculty, and student at-large members of the Union Board will serve renewable, two-year terms. Each year, the terms of half the members of the Union Board will expire. The maximum number of continuous terms is three (six years). The alumni members of the Union Board will alternate renewable terms.
 - c. Of the seven student members, one will be the GSB President, or his/her designee; one will be the Graduate Student Senate President, or his/her designee; and one will be the SUB President or his/her designee.
 - d. The remaining members will be nominated from the student body by the GSB Executive Council, or its designee, as determined in GSB Law and confirmed by the GSB Senate.
 - e. The alumni members of the Union Board will be confirmed by the Union Board of Directors from nominations provided by the Iowa State Alumni Association.
 - f. The faculty member of the Union Board will be confirmed by the Union Board of Directors from a nomination by the Faculty Senate.
 - g. The Union Board will select, from its membership, a president and a vice president.
 - h. The Vice President for Business and Finance at ISU will serve as an ex-officio, non-voting member of the Union Board.
The Union Executive Director will serve as an ex-officio, non-voting member of the Union Board.
 - j. All existing members will be allowed to serve their full term until the new structure can be fully implemented.

5. **Union Board Officer Responsibilities:**

- a. The President will serve as the Chair of the Union Board, facilitating all meetings in accordance with Robert's Rules of Order.
- b. The President will communicate with the Vice President for Student Affairs and the Union Executive Director to ensure that the strategy set by the Union Board is being implemented.
- c. The President will act on behalf of the Union Board for those decisions needing immediate attention.
- d. The Vice President will assume all the duties of the Union Board President, in his/her absence or incapacitation.

6. **Union Executive Director Responsibilities:**

- a. The Union Executive Director is responsible for the successful implementation of the policy, priorities, and strategies and suggestions set forth by the Union Board of Directors.
- b. The Union Executive Director shall seek and implement the Union Board of Directors' direction as to changes in policy, priorities, and strategy.
- c. The Union Executive Director shall report to the Vice President for Student Affairs.

7. All current MEMORIAL UNION employees will be transferred to the university staff under the same terms as applied in the Single Food Service merger. The details of this transfer will be agreed upon between the Vice President for Student Affairs, the Vice President for Business Affairs and the MEMORIAL UNION after the execution of this agreement.

IV. ISU, GSB and the MEMORIAL UNION agree that the following Funding and Support will be provided to manage and operate the property transferred pursuant to this agreement, subject to the budgetary support that is available to ISU:

1. The ISU President will request the ISU Foundation to undertake a feasibility study regarding fundraising for the property transferred pursuant to this agreement with a goal of renovating and modernizing the property. ISU agrees to give high priority to private fundraising for the MEMORIAL UNION property in the next capital campaign if the feasibility study reveals a high probability of success. The ISU President will request that the ISU Foundation work closely with the Union Board of Directors on fundraising activities.
2. The renovation project will have a scope of approximately \$30 million. Any renovations by the ISU Alumni Association or the ISU Bookstore shall not be covered by student fees. Funding for Phase I of the renovation project will be made possible through the University's bond

financing authority. Phase 1 of the renovations will begin within one calendar year of the agreement.

3. The current bond held by the MEMORIAL UNION will be refinanced through the same bonding process as the proposed renovation project. The current \$9.16 (\$3.90 and \$5.26) per student semester fee will be combined with the proposed \$15 per student semester fee to help finance the proposed renovation.
 4. The Union property will be eligible to receive funds from ISU's building repair fund and other University sources.
 5. All funds destined for the MEMORIAL UNION under the Single Food Service agreement will continue to be destined for the operations of the Union property.
 6. The MEMORIAL UNION "Life Membership" program will be continued by ISU, with each current life member enjoying the same benefits as he/she presently enjoys. However, the "Life Membership" program will be reorganized to allow greater ability to fundraise and build a stronger tradition. The ISU Alumni Association and the ISU Foundation will assist the Union Board of Directors and the Vice President for Student Affairs in reorganizing the Life Membership Program.
- V. ISU, GSB and the MEMORIAL UNION agree that the following benefits shall be available to current members of the Union Board of Directors:

The Union Board of Directors shall continue to have the same access to the Union Boardroom as the current Union Board of Directors.

2. The Union Board of Directors will have access to the Union Executive Director's administrative staff for tasks associated with being members of the Union Board of Directors.
- VI. Miscellaneous provisions.
1. **Governing Law.** This agreement shall be governed by the laws of Iowa, the courts of which shall have jurisdiction over its subject matter.
 2. **Effective Date.** The effective date of this agreement shall be January 1, 2003, or as soon thereafter as the appropriate legal documents have been finalized.
 3. ISU, the REGENTS, GSB and the MEMORIAL UNION shall work together and develop any appropriate documents that are necessary to complete the dissolution of corporate status and transfer of property contemplated by this agreement.

For IOWA STATE MEMORIAL UNION CORPORATION:



Andrew C. Tofilon, President

9/30/02
Date

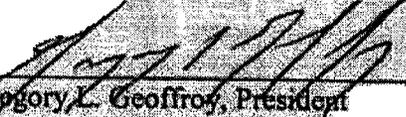
For GOVERNMENT OF THE STUDENT BODY at Iowa State University:



Timothy J. Schneider, President

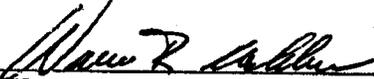
09/30/2002
Date

For IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY:



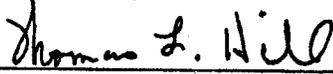
Gregory L. Geoffroy, President

10/2/02
Date



Warren Madden, VP Business and Finance

10/1/02
Date



Thomas L. Hill, VP Student Affairs

30 September 02
Date

For BOARD OF REGENTS, State of Iowa

Gregory S. Nichols, Executive Director

Date

IOWA STATE UNIVERSITY
Government of the Student Body

Memorial Union
Ames, Iowa 50011
515 294-1585
FAX 515 294-5239
www.gsb.iastate.edu

SENATE OF THE GOVERNMENT OF THE STUDENT BODY

SENATE MEETING OCTOBER 2, 2002

SENATE ORDER 2002-2-020SA

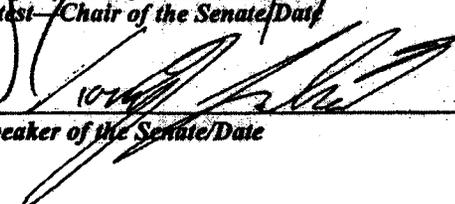
- TITLE:** Ratification of the Memorial Union Agreement
- WHEREAS:** The Iowa State Memorial Union has a rich history in serving students as a university community resource at Iowa State University since the Union's conception by the Board of Regents some seventy-four years ago, and
- WHEREAS:** In order to serve the growing demand students have placed on the Memorial Union it has become necessary to seek alternate sources of management and funding, and
- WHEREAS:** To achieve these improvements and preserve one of Iowa State's most precious institutions, President Schneider has entered into a contract on behalf of the students of Iowa State with the Memorial Union Board of Directors, Iowa State University, and the Board of Regents, and
- WHEREAS:** The Senate must ratify the contract, be it therefore
- ORDERED:** That the Senate of the Government of the Student Body hereby ratifies the attached Memorial Union Agreement with all of the provisions and responsibilities therein.

October 2, 2002

LUKEN, A.
ALLIGER, H.
LEEGER, D.
JOHNSON, N.
KLINE, D.
Schneider, T.
Tofilon, A.
Cordaro, R.
Darr, J.

 10/10/02

Attest—Chair of the Senate/Date

 10-11-02

Speaker of the Senate/Date

22.2.5

Vote Count

PASSED

Result

RESOLUTION establishing a self liquidating Memorial Union Facility and approving a Memorandum of Agreement between and among the Iowa State Memorial Union Corporation, the Government of the Student Body at Iowa State University, and The Board of Regents, State of Iowa

WHEREAS, under the provisions of Iowa Code Sections 262.44 through 262.53, inclusive, (hereinafter referred to as the "Act"), the Board of Regents, State of Iowa (the "Board"), is authorized to undertake and carry out projects as defined therein, at the various institutions of higher learning under its jurisdiction in order to provide necessary self-liquidating and revenue producing facilities which the Board deems necessary for the comfort, convenience and welfare of the students of any such institution and suitable for the purposes for which the institution was established; and

WHEREAS, the Board finds that the Iowa State Memorial Union is suitable for acquisition as a self liquidating and revenue producing facility which is necessary for the comfort, convenience and welfare of Students at Iowa State University of Science and Technology and is necessary for the students and for the purpose for which the University was established.

WHEREAS, the Act authorizes the Board to borrow money and mortgage real estate and improvements in order to secure necessary loans to pay all or any part of the cost of acquiring, constructing, improving and equipping self-liquidating and revenue producing buildings and facilities at any institution, with such loans to be made payable solely from the net rents, profits and income received by the system of which such buildings and facilities are a part and as otherwise provided for in the Act; and

WHEREAS, the Iowa State Memorial Union Corporation (the "Memorial Union") and the Government of the Student Body at Iowa State University have presented a Memorandum of Agreement which calls for the Board to assume the current outstanding debt of the Memorial Union, accept transfer of the property owned by the Memorial Union and delegate to Iowa State University the authority to manage the property as a resource of the University community at Iowa State University; and

WHEREAS, pursuant to the Memorandum of Agreement the Memorial Union agrees to dissolve the Iowa State Memorial Union Corporation and transfer all property, real and personal, that it owns to the Board on January 1, 2003, or as soon thereafter as the appropriate legal documents have been finalized; and

WHEREAS, pursuant to an Indenture Trust dated as of November 8, 2000 between the Iowa State Memorial Union Corporation, acting by and on behalf of the State of Iowa acting through the Board of Regents, State of Iowa and Bankers Trust Company, National

Association, of Des Moines, Iowa, as Trustee, the Memorial Union has issued its first mortgage notes, Series 2000, in a principal amount of \$4,890,000 (the "2000 Notes") and to secure the 2000 Notes, has given a Real Estate Mortgage and Security Agreement and Fixture Financing Statement (the "Mortgage") and an assignment of revenues, rents and leases (the "Assignment"); and

WHEREAS, pursuant to Section 7.04 of the Indenture, at any time, the Board may assume the operations and all obligations of the Memorial Union, including the assumption of the obligations of the Memorial Union under the Indenture; and

WHEREAS, pursuant to Section 7.04 of the Indenture if the Board elects to assume such Indebtedness, the Board has given a covenant that it will continuously operate the facility on a self liquidating, revenue producing basis until the Notes have been defeased as provided in Article 12 of the Indenture and such assumption shall not relieve the Memorial Union of its obligations on their Notes and pursuant to the Indenture; and

WHEREAS, it is necessary and advisable that the Board assume the operations and all obligations of the Issuer;

NOW, THEREFORE, Be It Resolved by the Board of Regents, State of Iowa, as follows:

Section 1. That the Memorandum of Agreement between Iowa State Memorial Union Corporation and Government of the Student Body at Iowa State University and the Board on behalf of Iowa State University of Science and Technology be approved, and the President and Executive Director of the Board are authorized and directed to execute the agreement, and take all necessary action to assume the current outstanding debt of the Memorial Union, to accept transfer of the property owned by the Memorial Union and assume the operations of the Memorial Union as a self liquidating and revenue producing facility, and to carry out the purposes contemplated by this resolution.

Section 2. That the Iowa State Memorial Union shall be operated as a self liquidating and revenue producing facility as provided in Iowa Code Sections 262.44 through 262.53, inclusive.

Section 3. That all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Passed and approved _____, 2002.

President, Board of Regents, State of Iowa

Attest:

Executive Director, Board of Regents,
State of Iowa

I, Gregory S. Nichols, being first duly sworn, do hereby certify that I am the duly appointed, qualified and acting Executive Director of the Board of Regents, State of Iowa, and as such officer have in my possession or have access to the complete corporate records of the Board of Regents, State of Iowa, and its officers; that I have carefully compared the transcript hereto attached with the aforesaid records; and that same constitutes a true, correct and complete copy of the official records of said Board in relation to the adoption of a resolution on _____, 2002, regarding establishing a self liquidating Memorial Union Facility, approving Memorandum of Agreement between Iowa State Memorial Union Corporation, the Government of the Student Body at Iowa State University, and The Board of Regents, State of Iowa of said Board.

IN WITNESS WHEREOF, I have hereunto affixed my official signature at Urbandale, Iowa, this _____ day of _____, 2002.

Executive Director, Board of Regents,
State of Iowa

STATE OF IOWA)
) SS
COUNTY OF POLK)

Subscribed and sworn to before me this day, the date last above written.

Notary Public