

ARIZONA BOARD OF REGENTS

Minutes of a Special Board Meeting

Thursday, January 28, 2021

A special board meeting of the Arizona Board of Regents was held virtually on Thursday, January 28, 2021 at 1:00 p.m.

Members Present via video: Regent Penley, Regent Manson, Regent Shoopman, Regent Ridenour, Regent Taylor Robson, Regent DuVal, Regent King, Regent Mata, Regent Rusk and Regent Dave

Members Absent: Superintendent Hoffman and Governor Ducey

Others present via video: from the board office Executive Director John Arnold, General Counsel Jennifer Pollock, Nancy Tribbensee, Samantha Blevins, Chad Sampson, Brittany Kauffman, Larry Sandiago, Suzanne Templin, Tom Merriam and Kim Edwards; from Arizona State University President Crow, Christine Wilkinson, Jose Cardenas, Morgan Olsen, Martin McAllister, Matt Salmon, Adam Deguire, Anotonio Diaz and Kendra Burton; from Northern Arizona University President Cheng, Christy Farley, Bjorn Flugstad, and Katy Yanez; from the University of Arizona President Robbins, Jon Dudas, Laura Todd Johnson, Lisa Rulney, Betsy Cantwell, and Sabrina Vazquez. Elizabeth Fleig and Dave Wollenhaup closed captioners.

Regent Penley called the meeting to order at 1:16 p.m.

Regent Penley congratulated Regent Dave who lead the ASU student team that won the million-dollar XPRIZE Next-Gen Mask Challenge.

PUBLIC SESSION

Discussion and Consideration of Legislation Affecting the University Enterprise (Item 1)

Brittney Kaufmann presented legislation affecting the University Enterprise. The bills presented for board's position of support are as follows:

H2017 Appropriation; stem; learning; workforce development – The legislature intends to appropriate \$3 million, on an on-going basis, from the general fund to the Arizona Commerce Authority to administer grant programs in STEM workforce development. Universities may apply for these grants.

H2142 and S1150 Agricultural workforce program; apprentices; appropriation – A program overseen by the Department of Agriculture with a \$500,000 appropriation for two years from the general fund. This is a workforce program that provides incentives

for food producing agricultural organizations to hire apprentices and provides partial reimbursement for those costs. This bill will benefit University of Arizona's work with cooperative extensions throughout Arizona.

H2390 and H2594 Law Clinic; stream adjudications; appropriations— The bill addresses the large amount of stream adjudications/water rights claims in rural Arizona. The bill proposes allocating \$500,000 to fund the University of Arizona's Natural Resources Users Law and Policy Center to provide pro bono services to small claimants who can't afford legal services, in an effort to settle their claims so the larger claimants cases may be dealt with. Regent Penley commented on the enormous amount of claims that have not been adjudicated. With drought conditions worsening, the issue is significant. This bill will help to reduce pending claims.

H2454 Telehealth; health care providers; requirements— The bill proposes maintaining many of the state's telehealth services initiated during the COVID-19 pandemic. The University of Arizona has been operating the state's telemedicine program since its inception in 1995, providing medical services for the prison system and underserved communities. Collaboration between the telemedicine program director and the governor's office is ongoing.

S1078 Medical student loan program - \$2 million proposed appropriation from the general fund to the Medical Student Loan Fund. The bill proposes changes in the board to remove all but the director of the department of health services. The board would include two gubernatorial appointees and one representative from each of the accredited medical schools in Arizona for eight-year terms. The bill would also modify the requirement of the percentage of loan monies awarded to students attending private medical schools and modifies penalties for loan recipients who do not fulfill their contracts.

S1295 Advance placement courses; exams; appropriations – This bill proposes a \$2.7 million appropriation to enhance access and participation in advanced placement courses and exams. It also establishes a fee waiver program to eliminate or reduce exam fees for students in public schools in Arizona who meet federal poverty guidelines.

S1377 Civil liability; public health pandemic – This bill is before the board because it includes educational institutions. Under consideration is a civil liability bill proposing that during a public health pandemic in which the governor declares a state of emergency, a person or provider that acts in good faith to protect a person or the public from injury is not liable for damages in any civil action for injury, death or loss. Persons or providers who are proven to have failed to act or acted with willful misconduct or gross negligence are not protected under this bill.

Upon motion by Regent Penley; seconded by Regent Shoopman, the board voted to support the following bills, H2017, H2142, S1150, H2390, H2454, S1078, S1295,

S1377. Regents Penley, Manson, Taylor Robson, Shoopman, Ridenour, DuVal, King, Mata and Rusk voted in favor. None opposed and none abstained.

Ms. Kaufmann introduced two additional bills for board discussion. The first bill involves the state historic preservation officer who deals with utilities and giving rights for archeological clearances and developing sites, and the Arizona State Museum which is managed by UArizona. UArizona does the work, preserves the materials and curates the museum but is limited on imposing fees to cover those expenses. There is an issue as to who controls what and how. Executive Director Arnold clarified that there is no position needed at this time, but the board is being made aware so ABOR's and UArizona's government affairs representatives may engage with the sponsor and other constituency groups to improve the current situation. As the bill is, it would be proposed the board take a position of opposition.

The second bill discussed was regarding the New Economy Initiative (NEI) and funds to support university research and development. UArizona's hypersonic testing and the wind tunnel are of great interest to legislators and private industry. Senator Boyer introduced a bill appropriating \$4.5 million to UArizona for research and development of their hypersonic technology. Additional, on-going funds for operational expenses and grants related to this technology are also included in the bill. Ms. Kaufmann and the university government affairs representatives wish to remain active on this issue to ensure the New Economy Initiative moves forward.

Regent Penley urged the government affairs representatives to work closely with the university presidents. The New Economy Initiative needs to move forward to ensure all three universities are educating individuals educated for jobs of the future. While Senator Boyer's bill is helpful, the board needs to keep the interest in all three universities in one initiative. Executive Director Arnold explained possible scenarios regarding the New Economy Initiative bills and urged the board take a position of support for these measures and the University Enterprise partners who are advocating on the board's behalf. It is hoped all these bills will be stopped and a budget conversation will occur, and the Universities Enterprise interests will be brought together.

President Crow noted that the only thing being advance in any way is the governor's budget request and recommended the board support the totality of the budget request and all its elements rather than allowing it to be chopped into separate bills and having them used as political bargaining chips.

Sabrina Vasquez, UArizona government affairs representative commented that Raytheon has stated they will support the entire NEI budget.

Action on these bills was postponed.

Upon motion by Regent King; seconded by Regent Manson, the board approved convening in executive session. Regents Penley, Manson, Shoopman, Taylor Robson, Ridenour, DuVal, King, Mata and Rusk voted in favor. None opposed and none abstained.

EXECUTIVE SESSION

The board convened in executive session at 1:39 p.m.

RECONVENE PUBLIC SESSION

The board reconvened in public session at 5:03 p.m.

Possible Discussion and Consideration of Legislation Affecting the University Enterprise (Item 1)

John Arnold presented two pieces of legislation for the board to consider. S1296 Collegiate athletics; compensation - requires institutions competing in sports to allow a student athlete to receive compensation for the use of that student athlete's name, image or likeness. This bill aligns Arizona state law with NCAA guidelines. The second legislation involves an effort to repeal and amend portions of Proposition 300 which would eliminate the prohibition of Arizona high school graduates who have completed two years at an Arizona high school, and whose legal status is in question, to be eligible to receive resident tuition and financial aid. There currently is not a bill and the motion is conceptual. Position of support by the board is requested.

Regent Penley commented on the board's philosophy for overall attainment for citizens of Arizona for post-secondary education. Long-term benefits for individuals and the state are enhanced by a post-secondary education. The economy of the state depends on raising the attainment rate in Arizona. Focusing on Arizona's high school students, with two years completed in an Arizona high school and their ability to access in-state tuition is the issue being endorsed by the board.

Motion 1:

Upon motion by Regent Penley; seconded by Regent DuVal, the board approved continuing to work toward the success of each of our students and support our elected officials in creating a permanent legislative solution that will provide certainty to our DACA students as well as other students who have completed an Arizona high school degree, providing them greater access to higher education through in-state tuition rate eligibility. Regents Penley, Manson, Taylor Robson, Shoopman, Ridenour, DuVal, King, Mata and Rusk voted in favor. None opposed and none abstained.

Motion 2:

Upon motion by Regent Penley, seconded by Regent King, the board approved the motion to support SB1296 as long as the legislation directly aligns to any future actions of the NCAA. Regents Penley, Manson, Taylor Robson, Shoopman, Ridenour, DuVal, King, Mata and Rusk voted in favor. None opposed and none abstained.

Authorization for the Board's Legal Counsel to Stipulate to Dismissal on the Board's Behalf in *State of Arizona, ex rel. Mark Brnovich, Attorney General, v. Arizona Board of Regents* (Case Nos. CV 2017-012115; 1 CA-CV 18-0420; T-19-0002-CV; CV-19-0027-SA, CV-19-0247). (Item 2)

Regent King recused herself from this item exited the meeting.

General Counsel Jennie Pollock reviewed details of the State of Arizona, ex rel. Mark Brnovich v. Arizona Board of Regents lawsuit regarding tuition and previous court rulings. In November 2020, the Superior Court upheld the trial court's dismissal of counts 1-5 but remanded and reversed the trial court's decision on count 6. This stipulation being brought before the board will dismiss with prejudice the remaining count 6 resulting in an order from the Superior Court to end the litigation and dispose all claims filed against the board in the lawsuit regarding tuition. The stipulation also provides all parties will cover their own attorneys' fees and costs.

Upon motion by Regent Penley; seconded by Regent Manson, the board approved authorization to the board's legal counsel to stipulate to dismissal on the board's behalf in *State of Arizona, ex rel. Mark Brnovich, Attorney General, v. Arizona Board of Regents* (Case Nos. CV 2017-012115; 1 CA-CV 18-0420; T-19-0002-CV; CV-19-0027-SA, CV-19-0247). Regents Penley, Manson, Taylor Robson, Shoopman, Ridenour, DuVal, Mata and Rusk voted in favor. None opposed and none abstained.

ADJOURNMENT

The meeting adjourned 5:12 p.m.

Submitted by:

Kim Edwards
Administrative Associate