

SPECIAL MEETING
BOARD OF REGENTS
NEVADA SYSTEM OF HIGHER EDUCATION

Student Union, Ballrooms B & C
University of Nevada, Las Vegas
4505 S. Maryland Parkway, Las Vegas

Friday, April 19, 2013

Video Conference Connection to:
System Administration, Reno
2601 Enterprise Road, Conference Room
and
Great Basin College, Elko
1500 College Parkway, Berg Hall Conference Room

Members Present:

Dr. Jason Geddes, Chair
Mr. Kevin J. Page, Vice Chair
Dr. Andrea Anderson
Mr. Robert Blakely
Mr. Cedric Crear
Dr. Mark W. Doubrava
Mr. Ron Knecht
Mr. James Dean Leavitt
Mr. Kevin C. Melcher
Dr. Jack Lund Schofield
Ms. Allison Stephens *{via telephone}*
Mr. Rick Trachok
Mr. Michael B. Wixom

Others Present:

Mr. Daniel J. Klaich, Chancellor
Ms. Crystal Abba, Vice Chancellor, Academic & Student Affairs
Ms. Brooke Nielsen, Vice Chancellor, Legal Affairs
Mr. Vic Redding, Vice Chancellor, Administration and Finance
Dr. Marcia Turner, Vice Chancellor, Health Sciences System
Ms. Renee Yackira, Vice Chancellor, Administration and Operations
Mr. Scott Wasserman, Chief of Staff and Special Counsel to the Board
Dr. Michael D. Richards, President, CSN
Dr. Ellie Oppenheim, Provost, DRI
Dr. Mark A. Curtis, President, GBC
Mr. Bart Patterson, President, NSC
Dr. Maria C. Sheehan, President, TMCC
Dr. John White, Provost, UNLV

Dr. Marc A. Johnson, President, UNR
Dr. Carol A. Lucey, President, WNC

Also present were faculty senate chairs Dr. David Rhode, DRI; Dr. David Friestroffer, GBC; Ms. Angela M. Brommel, NSC; Ms. Dani Chandler, NSHE; Ms. Shannon Sumpter, UNLV; Mr. Brad Summerhill, TMCC; and Mr. Gil Martin, WNC. Student government leaders present included Mr. Michael Gordon, GPSA President, UNLV; Mr. Navgeet Zed, SGA President, TMCC; and Mr. Curtis Blackwell, ASWN President, WNC.

Chair Geddes called the meeting to order on Thursday, April 19, 2013, at 9:05 a.m. with all members present except Regent Stephens.

Regent Schofield led the Pledge of Allegiance.

1. Information Only – Public Comment (Agenda Item #1) - Dr. Jim Richardson expressed his appreciation to the Board of Regents, the Chancellor and System staff for their efforts in preparing for the 2013 legislative session, particularly in regard to the various weapons bills. He felt NSHE's lobbying presence at the 2013 Nevada Legislature has been the most effective in many years.

Regent Knecht requested the record to reflect he may ask Dr. Richardson a few questions regarding his comments later in the meeting.

2. Information Only - 2013-2015 NSHE Biennial Budget (Agenda Item #2) - Chancellor Daniel J. Klaich reported to the Board regarding the 2013-2015 NSHE Biennial Budget Request submitted to the Governor, the Executive Budget, new developments from the 2013 legislative session and provided an update on the financial status of the state and the corresponding impact on budgets.

Chancellor Klaich said the Board's priorities have been emphasized throughout the 2013 Session of the Nevada Legislature, including restoration of faculty pay, financing for the Knowledge Fund and System staff continues to emphasize the need for adjustment to the Funding Formula to hold the community colleges harmless. With respect to the Knowledge Fund, staff has testified in favor of Assembly Bill 390 (AB 390) which revises provisions governing the Knowledge Fund as well as in favor of Senate Bill 173 (SB 173) to increase the appropriation to the Knowledge Fund from \$10 million to \$20 million. Earlier in the month Governor Sandoval issued a statement recommending further relief in the area of faculty pay and benefits due to the anticipated availability of resources.

Chair Geddes said the Board may meet on May 7 and/or May 24, 2013, depending on the results of the Economic Forum projections scheduled to be released on May 1, 2013.

2. Information Only - 2013-2015 NSHE Biennial Budget (Agenda Item #2) – (Cont'd.)

Regent Crear asked the Chancellor to elaborate on the Governor's statement regarding the restoration of faculty pay and benefits. Secondly, Regent Crear asked if the additional \$10 million request for the Knowledge Fund was negotiable. Chancellor Klaich said a determination regarding additional appropriations for the Knowledge Fund will not be made until the Economic Forum meets on May 1, 2013. A variety of critical needs for additional funding have been identified by the Legislature including some in higher education and some in other areas such as Health and Human Services. The Governor anticipated the availability of enough funding to reduce furloughs by half in the first year of the biennium and then completely eliminate furloughs in the second year of the biennium.

Regent Knecht requested copies of a March 12, 2013, email from Chancellor Klaich, including an attached document as prepared by Special Consultant to the Chancellor Mark Stevens, be distributed to meeting participants for discussion later in the meeting (*on file in the Board Office*).

1. Information Only – Public Comment (Agenda Item #1)– (Cont'd.)

Regent Knecht shared a thank you message from WNC's 2013 Regents' Scholar award recipient Mr. Darren Kyte with the full Board.

3. Action Taken – Legislative Report (Agenda Item #3) - The Board received an update on legislative measures being considered by the Nevada Legislature impacting the Nevada System of Higher Education. A list of the specific legislative measures is posted with this meeting's agenda as Appendix A (*pages 7-19*). The Board of Regents approved its positions on legislative bills as indicated on Appendix A and as updated verbally by Vice Chancellor of Administration and Operations Renee Yackira with the exception of Assembly Joint Resolution 8 (AJR 8) [proposed constitutional amendment to provide for appointment of a Student Regent to the Board] and AB 143 [makes various changes relating to concealed firearms] which were acted upon separately. The Board took a position in opposition to AJR 8 including the concept embodied in AJR 8 should it appear in a different joint resolution. The Board also voted to affirm its position in opposition to AB 143 (*Appendix A and Ref. BOR-3 on file in the Board Office*).

Vice Chancellor Yackira provided an update on changes to Appendix A as posted with the meeting agenda, including:

SB 255 - Limits the use of certain property or the proceeds of certain property by the Board of Regents. SB 255 has been amended to require approval by the Assembly Committee on Ways and Means and Senate Committee on Finance before proceeds from the sale of agricultural research assets can be used for non-agricultural purposes. Although the bill was amended to allow for use of agricultural assets for non-agricultural purposes it will require approval by the legislative money committees. For that reason the NSHE's position on SB 255 has changed from being monitored to in opposition.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

SB 391 - Directs the Legislative Commission to appoint a committee to conduct an interim study concerning the governance structure of, and funding methods for, community colleges in Nevada. The original bill proposed the transfer of the community colleges to the Department of Education in addition to other provisions. NSHE has raised concerns that the composition of the interim study committee consists only of legislative representation and not representatives from the community colleges or from the Board of Regents. System staff have been speaking to Assembly members and working with the bill's original sponsor for further amendments to address NSHE's concerns.

SB 21 - Revises provisions governing state financial administration including electronic payroll transfers. The original bill had overlooked the need to include NSHE but has since been amended. NSHE is in support of the bill as amended to include the NSHE.

Vice Chancellor Yackira said the bills regarding the carrying of concealed weapons on campus (AB 143 and SB 223) have technically died. Other bills being monitored include AB 353 related to state-based financial aid and AB 335 related to the UNLVNow Project.

Chief of Staff and Special Counsel to the Board of Regents Scott Wasserman said the agenda item is drafted in a way to allow the Board to take action on a position for specific legislative bills. Historically, the Board of Regents has not taken specific actions on specific bills but has discussed and supported the concept of certain legislative bills. It also was not unusual for the Board to hear a legislative update and take no action such as occurred at the February 28 and March 1, 2013, Board meeting.

Mr. Wasserman said if the Board was not going to take action to accept the legislative report he encouraged the Board to discuss any specific concerns related to the bills as presented in the report. Any motion to support specific legislation should include authorization for the Chancellor to carry the Board's position forward to amendments contained in other bills that may consist of the original concept of the supported bill.

Regent Page asked about AB 130 relative to the revision of provisions contained in the Trust Account for the Education of Dependent Children including an expansion to the list of qualifying criteria. Specifically, he was concerned there are not enough funds to support the existing students let alone an expanded program. Chancellor Klaich said Senator Debbie Smith [Chair of the Senate Committee on Finance] increased the appropriation to \$20,000 per year of the biennium. However, the NSHE's current expenditures for the program are approximately \$25,000 per year. A reminder has been provided to the legislative panel that private business and associations have had to pick up the difference in funding to support qualifying students.

Vice Chancellor Yackira clarified SB 293 addresses financing of the Trust Account for the Education of Dependent Children while AB 130 proposes an expanded list of qualifying criteria.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

Regent Knecht referred to the first two pages of Appendix A (*pages 7 and 8 of the posted agenda*). He asked when the Board had voted to take explicit positions on any of the bills as listed. Chair Geddes said the presidents and the Chancellor were given the authority to take positions on bills based on the history, policy and intent of the Board.

Regent Doubrava requested discussion on the Board's "neutral" position on AJR 8 to amend the Nevada Constitution to provide for the appointment of a Student Regent to the Board of Regents. Regent Doubrava said he was in favor of student representation but could see many potential issues with the proposed legislation. He questioned the number of Student Regents to be appointed, what the qualifications would be for a Student Regent, what the Student Regent(s) term of appointment would be and what geographical location would the Student Regent(s) represent.

Regent Wixom said although he was also anxious to have student input a partially appointed and partially elected board creates the worst possible and dysfunctional governance structure.

Regent Knecht supported having a Student Regent as long as the student is elected to the office. Regent Knecht said one additional issue is the one-person, one-vote principle. Specifically, a student living in one of the existing Regent districts can vote for Regent representation but then also cast a second vote for a Student Regent. Each elected official has a fundamental duty to the voters and taxpayers and to the broad public interest. A Student Regent may represent a limited special interest and not the broad public interest.

Regent Knecht moved approval for the Board to take a position in opposition to AJR 8 including the concept embodied in AJR 8 should it reappear in a different form. Regent Leavitt seconded.

Regent Page said an additional Student Regent would create a 14 member Board therefore requiring two Student Regents to make an odd number. The current structure allows each institution's student government leader the ability to participate in Board meetings. Having one Student Regent for the entire System may not allow for the same level of student input as the current structure.

Chancellor Klaich explained AJR 8 is not the mechanism for appointing a Student Regent. AJR 8 only amends the Constitution to authorize legislation to provide for the appointment of a Student Regent.

Regent Melcher said the current State Board of Education's representation is comprised of four elected members with voting privileges, three appointed members with voting privileges and four appointed members without voting privileges. As the Board of Regents' representative on the State of Board of Education he said the process is proving to be confusing.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

Regent Melcher asked if a Student Regent is allowed then why not a Faculty Regent or a Classified Staff Regent. He also expressed concern for the number of times a conflict of interest would arise requiring the Student Regent to excuse themselves from voting.

Regent Anderson agreed with the concerns expressed thus far. She asked how it will be determined which institution the Student Regent will be from. She said a one or two year appointment would be too short of a term with the steep learning curve involved.

Regent Leavitt said the current 13 elected Regents represent every constituent in the state of Nevada. He felt the students' voice is heard loud and clear through their representation at Board meetings and through their meetings with the Chancellor and the Board Officers.

Mr. Michael Gordon, GPSA President, UNLV and Chair of the Nevada Student Alliance (NSA), said the NSA is aware of and still working through the many questions and concerns. He felt the Board has been very supportive of student activism in the past and found it strange to hear the Board's opposition to activism in this regard. The students saw a gap in their representation and moved forward.

Regent Trachok felt all constituent groups have a voice through the election process.

Regent Crear said the Regents' questions were valid. However, he felt it was premature to take a stance for or against the concept of the proposed bill without the answers to the questions raised.

Ms. Shannon Sumpter, UNLV Faculty Senate Chair, said if a position is created for a Student Regent then the faculty senates would like equal representation in the same manner.

Regent Leavitt did not feel any member of the Board was against student activism. To the contrary, he felt the Board fully supported student activism evidenced by the number of issues the Board and students have worked through together. He respected the students and was not opposed to arguing the merits of any legitimate disagreement between the students and the Board with respect to how much of a voice the students have.

Regent Knecht said both his points of one-person, one-vote and the question of what would the Student Regent represent when the remainder of the Board represents the broad public interest were fundamental objections in principle to the concept. He asked Mr. Gordon to address the issues presented by his two points. Mr. Gordon felt the concern for one-person, one-vote would not apply if the Student Regent is appointed and not elected. He emphasized AJR 8 proposes a concept.

Regent Knecht asked how it would make sense to mix an appointed with an elected board if the basic organizing demographic is to elect representatives from the broad population

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

and not from special interest or stakeholder groups. Mr. Gordon said the NSA has had significant discussions whether to support the NSHE's three priorities for the 2013 legislative session, including the restoration of faculty pay and benefits. He said it could not be assumed a student representative will always vote for the students. He felt student government leaders have shown they will vote in the interest of the broad mission of the public as evidenced by the restoration of faculty pay because doing so will move the System forward even to the detriment of some students.

Regent Melcher asked for the motion to include a short statement regarding the Board's support of students.

Regent Knecht asked Mr. Wasserman whether it was necessary that a formal amendment be made or if the discussion made the point clear. Mr. Wasserman felt the Board's discussion had made its support of students sufficiently clear.

Regent Melcher asked the Board Officers to visit with and speak more directly with the student government leaders regarding communication and the Board's representation of the students.

Regent Crear felt it important for the motion to clearly reflect the Board's opposition to the concept of a Student Regent but not necessarily to the specific details involved.

For the record, Mr. Wasserman said the extent of the detail provided in AJR 8 allows for the Legislature to provide appointment by the Board of Regents of a Student Regent to serve as a voting member of the Board of Regents and for the Legislature to provide the qualifications and term of office of the Student Regent.

Regent Stephens entered the meeting.

Regent Crear asked when the details would be available. Mr. Wasserman stated the constitutional amendment would have to be approved in the current 2013 legislative session, once again in the exact same form in the 2015 legislative session and then finally by the voters. If the proposed amendment is approved by the voter's then it will return to the 2017 Legislature to enact a statute to carry out the provisions of the constitutional amendment.

Regent Stephens requested the motion be restated. Mr. Wasserman restated the motion as being approval for the Board to take a position in opposition to AJR 8 including the concept embodied in AJR 8 should it reappear in a different form.

Motion carried. Regents Crear and Geddes voted no.

Regent Blakely requested clarification of the Board's position on SB 391 regarding the transfer of the community colleges to the Department of Education (*Appendix A on file in the*

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

Board Office). Vice Chancellor Yackira said the System has voiced its opposition to the original bill. However, the bill has been amended into an interim study and the System continues to work with the bill's sponsor to ensure Regents or institutional representation on the interim study committee if the bill goes forward.

Regent Blakely asked for clarification of the Board's position on SB 255 regarding use of certain property by the Board of Regents. Vice Chancellor Yackira said SB 255 has been amended to allow use of proceeds from the sale of agricultural research assets for non-agricultural research programs with the approval of the Assembly Committee on Ways and Means and the Senate Committee on Finance. The System's position remains in opposition to the bill because of the requirement for legislative approval.

Regent Anderson asked what the main principles were in opposition to SB 391 proposing the transfer of community colleges to the Department of Education. Vice Chancellor Yackira said questions were raised as to the constitutionality of transferring the community colleges to the Department of Education based on the constitutional authority of the Board of Regents. The bill has subsequently been amended to an interim study to analyze the governance and financing of the community colleges.

Regent Anderson asked if concerns had been raised regarding the transferability of courses from the community colleges to the universities. Chancellor Klaich said among the many arguments raised were the incompatibility of technological, administrative and governance infrastructure; transferability of property; transferability of course credit; and the development of tuition and student fees. He noted the State Treasurer's Office also raised concerns regarding the impact of SB 391 on Nevada's existing Pre-paid Tuition Program.

Regent Knecht moved to continue to oppose SB 391 for the reasons outlined by Chancellor Klaich and that an agenda item is prepared for the Board's discussion and action related to these matters for any May meeting which may occur prior to the June meeting.

Chair Geddes felt the direction contained in the motion had already been solidly communicated to staff and a motion was not necessary.

Vice Chancellor Yackira said SB 391 is no longer a bill but was passed as amended into an interim study. System staff will direct its efforts to ensuring System representation is included on the interim study committee.

Regent Knecht hoped SB 391 remained a study as currently amended. In regard to the broader policy and procedures question, he questioned how the Chancellor and staff can conclude they have the authority to take a NSHE position in support, opposition or neutrality to a legislative bill.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

Regent Knecht withdrew his previous motion on SB 391.

Regent Knecht clarified his withdrawal of the motion did not prejudice the question of whether there needed to be a better set of policies and procedures.

Chair Geddes agreed. He suggested the Board provide direction to System staff through a motion to ratify all the positions as presented, such as on a consent agenda.

Regent Blakely asked for an update on the possible exemption from public works projects for schools. Vice Chancellor Yackira said legislative discussions are still in terms of a pilot program and have not made it into bill form.

Regent Stephens asked if the System's position on any other bills included on Appendix A were amended since the posting of the agenda. Vice Chancellor Yackira reiterated three bills have been updated from monitored to oppose including SB 255, SB 391 and SB 21.

Regent Knecht said he would abstain from the vote because he had not had the opportunity to review and develop a position on every bill in Appendix A for which there was a NSHE position.

Regent Knecht asked if AB 143 related to concealed firearms was included on Appendix A. Chair Geddes and Vice Chancellor Yackira indicated AB 143 could be found on the first page of Appendix A (*page 7 of the posted agenda*).

Regent Knecht asked if AB 143 could be pulled from the motion for either no motion or a subsequent motion. Chair Geddes agreed.

Regent Wixom moved to approve the positions as indicated on Appendix A and as updated verbally by Vice Chancellor Yackira with the exception of AJR 8 and AB 143 which were acted upon separately. Regent Trachok seconded. Motion carried. Regents Doubrava and Knecht abstained.

Regent Knecht felt the position taken by the Chancellor and System staff to oppose AB 143 was fundamentally wrong and an example as to why there needed to be a better policy and procedure in place.

Chair Geddes stated the Board would need to take action on AB 143 since it was made an exception in the previous motion.

Regent Knecht moved to approve a change to the System's position on AB 143 from oppose to support as drafted and in principle. Regent Page seconded.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

Regent Crear thought AB 143 was a dead bill. Chair Geddes confirmed AB 143 is a dead bill. However, before the legislative session comes to an end it may be amended into other currently active firearms bills.

Regent Knecht said AB 143 would change existing statute to allow persons who have gone through training, investigation and due diligence by the county sheriff's office to receive a Concealed Carry Weapon Permit (CCW) and have the right to exercise their privileges on NSHE campuses just as they would anywhere else. He felt the issue was simply whether to continue the habit of declaring "gun free" zones which has no effect on the bad guys but does make those areas less safe for the good guys.

Regent Knecht felt a good example of such an occurrence was in the case of Amanda Collins who also testified before the Legislature. Ms. Collins was assaulted and raped in one of the System's parking garages within 100 feet of the campus police station. The same man who assaulted and raped Ms. Collins also raped another woman and kidnapped, raped and murdered Brianna Dennison. He quoted Ms. Collins as having said the people who oppose the ability for those with a legal permit to carry a weapon on campus in her mind have the blood of the victims on their hands. Regent Knecht felt Ms. Collins point was a reasonable one to argue.

Regent Knecht said people who believe places of learning should not allow law-abiding citizens to carry a weapon may ignore that non-law abiding citizens will still have the weapon and will use those weapons for their own bad purposes. The good guys will be defenseless.

As reflected in his testimony before the Nevada Assembly Judiciary Committee on April 3, 2013, Regent Knecht shared a story about one of his students at WNC who held a CCW. Regent Knecht felt it needed to be considered how one student being able to exercise their CCW rights on campus could have made a difference at the Virginia Tech mass-murder several years ago.

Regent Wixom asked if Regent Knecht was saying if he opposes AB 143 and Regent Knecht's motion then he would have blood on his hands. Regent Knecht said it is not what he said but what Ms. Collins said.

Regent Wixom said Regent Knecht had said Ms. Collins statement was a reasonable assumption. Regent Knecht clarified he had said Ms. Collins statement was a reasonable argument.

Regent Wixom felt that sort of illogical argument and nonsensical rhetoric made any discussion largely emotional and ineffective. He took great offense to Regent Knecht's statement and strongly opposed the motion.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

Regent Stephens said when she contacted System Administration to discuss AB 143 she had been told the System's position was in opposition. However, in light of recent information and after her review of the minutes from the September 2012 Board of Regents meeting, she felt she had been misled in being given that information. In her opinion, the September 2012 meeting minutes reflect the Board chose to align a policy with existing state statute. She felt she was deliberately misled by NSHE staff in their statement the Board of Regents had made a determination with regard to the topical nature of AB 143. She said she was in support of Regent Knecht's motion to change the System's position from opposition to in support of AB 143.

Chancellor Klaich felt he and the staff had been accused of misleading a Regent in addition to not being consistent with the Board of Regents' direction. Chancellor Klaich read into the record Board of Regents' *Handbook*, Title 4, Chapter 1, Section 31(2)(1) which states "*Except as otherwise provided in this section, a person shall not carry or possess while on the property of the NSHE, a private or public school or child care facility, or while in a vehicle of a private or public school or childcare facility:...*" and then goes on to list a number of dangerous weapons including guns. The Board's policy is what he testified to and has been the policy and position of the Board for nearly thirty years. To state NSHE staff has done anything other than testify in favor of the position of the Board was relatively offensive to him.

Regent Stephens said she was not speaking to the previous thirty years. She was speaking to a specific conversation with NSHE staff regarding the specific piece of legislation and actions taken at the September 2012 Board meeting. She wanted to be clear why she was in support of changing the System's supposed opposition to SB 143 because she did not feel she received accurate information when requested. She felt obligated to provide the reasons for her stand on the issue as an official and a Board member and had no wish to spar back and forth.

Regent Crear said for the benefit of those not on the Board or on the Cultural Diversity Committee previously under the leadership of former Regent Stavros Anthony, the related policies and procedures being discussed had been vetted at length, over the span of numerous meetings that included public comment and dialogue. The policy was vetted through the full Board of Regents and the decision was not to change the policy.

Regent Knecht said Assemblywoman Michele Fiore had not been a legislator who had proposed a Bill Draft Request, let alone AB 143, when Regent Anthony had been on the Board. He said Regent Anthony had proposed a POST-certification process for faculty and staff which was debated and voted upon by the Board members. Although the discussion at the time may have contained some commonality it was not the same as AB 143. The Board had taken no position on the particular provisions of AB 143 back then or at the September 2012 meeting when the Board implemented the current statute referred to by Regent Stephens.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

Regent Knecht read from the September 2012 Board minutes and quoted the Chancellor as stating “*the proposed policy was simply taking the rules contained in statutes in providing the presidents with guidelines for how discretion may be exercised within the law.*” He said the Chancellor, Chief of Staff Wasserman and Vice Chancellor Nielsen told the Board of Regents at the time it was voting on a narrow implementation of the statute as it stood, not voting on the underlying wisdom of the statute or the bigger issue. He felt the record was absolutely clear in that regard and the issues raised by AB 143 had not been voted or deliberated upon by the Board of Regents. He stated the Board now has the opportunity to do so one way or the other.

Regent Crear felt Regent Knecht’s comments were correct but for the fact the Board had not taken any additional action to move forward to change the policy it already had in place. He felt holistically the Board, institutions, students, faculty and staff are not in favor of SB 143. It was subject to discussion whether that has changed or not but holistically he felt the Board has said it is not in favor of guns on campus.

Regent Blakely said his perception of the Board’s position is it has opposed guns on campus in the past. He believed in the right of the people to bear arms, particularly if they have gone through the appropriate permit processes. However, he respected both sides of the argument.

Regent Page said the Board’s vote regarding former Regent Anthony’s proposal had been seven in favor and six opposed reflecting how controversial the issue was at the time. He felt the world has changed since then with many shootings and stabbings occurring on college campuses. He would be curious to see how many states have changed their campus gun laws in recent years and asked the Board to revisit the inclusion of Security as part of the Cultural Diversity Committee.

Regent Knecht said a minority of campuses or states have moved to recognize concealed carry rights on campuses in recent years although he did not know the exact number,

Mr. Wasserman said the vote on the current motion would establish the Board’s clear stand on the policy and the Board certainly has the authority to revise its policies. However, under the Board’s existing 1984 weapons policy, possession of firearms, among other conduct, is deemed “*incompatible with the purposes of an academic community*” and is prohibited for all members of the community without the written authorization of the president of any System institution, “*...unless such possession reasonably relates to duly recognized System functions by appropriate members of the faculty, other employees or students.*”

Mr. Wasserman said in 2007 the Board considered expanding the policy for the purposes of training faculty in the use and carrying of firearms on campus under certain conditions as part of a Reserve Peace Officer Program. That proposal was rejected by the Board on a vote of eight to five. In September 2012, the Board then adopted new Chapter 31 of Title 4 in the *Handbook*, setting forth the policy of possession of weapons on NSHE property and the authorization of the presidents to allow a person to carry a weapon on the campus. That has

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

been the only narrow exception the Board has made to its policy since 1984. He felt it a fair statement to say it remains the policy of the Board to this day but could be changed by the Board.

Upon a roll call vote, motion failed. Regents Doubrava, Knecht, Page, and Stephens voted yes. Regents Geddes, Leavitt, Melcher, Schofield, Trachok, Wixom, Anderson and Crear voted no. Regent Blakely abstained.

Regent Stephens left the meeting.

The Board meeting recessed at 11:05 a.m. and reconvened at 11:18 a.m. on Friday, April 19, 2013, with all members present except for Regents Schofield and Stephens.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

Regent Wixom moved to affirm the NSHE's position in opposition to AB 143. Regent Anderson seconded. Motion carried. Regents Doubrava, Knecht and Page voted no. Regent Schofield and Stephens were absent.

Regent Knecht moved to ask staff to prepare a policy and procedure for placing on the consent agenda all measures currently known and running with an indication of the Chancellor's recommendation of support, opposition, neutral or no position for the Regents timely and effective review and discussion if necessary.

Chancellor Klaich asked if the request implied the inability of the Chancellor or NSHE staff to take a position until the Board has taken action on the consent agenda. Regent Knecht said his intent was for the existing authority to remain unaffected but there would be an expedited and clear procedure for presenting the System's positions to the Board.

Mr. Wasserman said the motion was not appropriate under the agenda item definition. The Board Chair could take Regent Knecht's request under advisement for consideration to bring a policy revision forward to the next Board meeting.

Regent Knecht said he had requested Mr. Wasserman draft the agenda language so the Board could take any reasonable action. He had anticipated the Board would take some procedural or policy action concerning positions taken by staff on behalf of NSHE. His review of the agenda item description reflects the staff will review Board policy and so forth and the Board may provide specific direction to the Chancellor and/or presidents.

3. Action Taken – Legislative Report (Agenda Item #3) – (Cont'd.)

He asked Mr. Wasserman if the posted agenda language was not broad enough to accommodate the Board taking action to adopt a procedure regarding legislative reports.

Mr. Wasserman said Regent Knecht's email request indicated he wanted to discuss the issue but did not contain a specific proposal for changing the policy. The agenda item allows the discussion to occur but a change in or enactment of a new policy would have to come forward at a future Board meeting with appropriate notice provided to the public. Mr. Wasserman read a statement from the agenda item's language "*The Board may provide specific direction to the Chancellor and/or presidents with regard to addressing the legislative measures impacting NSHE.*" Mr. Wasserman stated Regent Knecht's recommendation was not to provide direction to the Chancellor or presidents but rather to enact a procedure for the Board for how it reviews bill drafts going forward.

Regent Knecht asked Chair Geddes to accept his request to place an item for this matter on the next Board agenda. Chair Geddes accepted Regent Knecht's request and agreed with Mr. Wasserman's counsel.

Regent Knecht withdrew his motion.

Regent Leavitt asked the Chancellor to explain briefly the pros and cons of Regent Knecht's request, including the impact of changing the System's position on legislative bills after the position has already been communicated to the Legislature.

Vice Chancellor Nielsen agreed with Mr. Wasserman that the matter needs to be placed on a future agenda in order to have a full discussion.

Mr. Wasserman said the policy as it stands now has not changed and is included as reference material BOR-3. The future agenda item will address the procedure for how the Board reviews legislation and NSHE's position on those bills. He had not heard anything that would require a revision to existing Board policy.

Chancellor Klaich hoped the Board's future discussion would also focus on any perceived deficiencies on staff representation or reporting of NSHE positions.

2. Action Taken - 2013-2015 NSHE Biennial Budget (Agenda Item #2) – (Cont'd.)

Regent Knecht referred to a March 12, 2013, email from Chancellor Klaich with an attached document as prepared by Special Consultant to the Chancellor Mark Stevens (*Handout on file in the Board Office*). Regent Knecht asked Chancellor Klaich if the information contained in the email and attachment was still accurate and current. Chancellor Klaich said the information is continually being updated. However, it had come to his attention after the information was distributed the numbers reported in the right hand column for FY 2014 still contained non-resident student data which did not take into account the new formula methodology.

Regent Schofield entered the meeting.

2. Action Taken - 2013-2015 NSHE Biennial Budget (Agenda Item #2) – (Cont'd.)

Regent Knecht appreciated the Chancellor's candor but said his questions would not pertain to FY 2014 or to the State Supported Operating Budget.

Regent Knecht asked Chancellor Klaich if it was reasonable to compare General Fund Support per FTE Student for UNLV (\$6,835) and UNR (\$7,090) for FY 2012. Chancellor Klaich said if Regent Knecht's question was really asking if the numbers are a reflection of his and the staff's best representation, then yes, he believed they were.

Regent Knecht said the handout reflected the Total FTE Students for UNLV as 18,580 and 13,583 for UNR. He asked Chancellor Klaich if there were minor or possible economies of scale involved in terms of student numbers in comparing the expenditures the Nevada taxpayers make to support education at the two universities or if the Chancellor would have ruled out the possibilities of an economy of scale. Chancellor Klaich stated not enough research had been done to have an opinion on the question.

Regent Knecht noted the difference between the total funding per FTE Students for UNLV and UNR at roughly three percent. He asked if it would be fair to say the two universities are at the same level in the most recently completed year on a per student basis within a small margin of difference perhaps accounted for by economies of scale. Chancellor Klaich stated respectfully it is the same question and the numbers are what the numbers are.

Regent Knecht asked if any System staff have considered the possibility of economies of scale in terms of relative support for each institution. Chancellor Klaich said economies of scale have been discussed on a number of occasions mostly related to the smaller colleges in the context of the necessity of a certain level of infrastructure not adequately supported at a low student level. Those economies of scale have been incorporated into the current and the proposed formulas.

Regent Knecht said when considering General Fund Support per FTE Student at CSN (\$3,875) versus WNC (\$6,373) and the Total FTE Students at CSN (20,021) versus WNC (2,358) it appeared to him the economy of scale effect of doubling the number of students at the community colleges is approximately eight percent in the cost per student.

Chancellor Klaich asked if Regent Knecht's mathematical results were a reflection of an economy of scale or a reflection of a mathematical construct of the current funding level. Regent Knecht responded he was looking for verification that the mathematics were roughly correct and asked the Chancellor to address the question at the next meeting. Secondly, Regent Knecht asked Chancellor Klaich to verify if there were any non-economy of scale factors undermining or qualifying his calculation.

Chancellor Klaich said inequitable funding had been one of the major concerns when considering the revision to the funding formula. What was presented to the Board, the Legislature's Interim Finance Committee, and the Governor and now the Legislature is a formula which tries to allocate General Fund dollars to the institutions based on the work completed in a similar manner.

2. Action Taken - 2013-2015 NSHE Biennial Budget (Agenda Item #2) – (Cont'd.)

The initial analysis had been to find a way to eliminate similar work being performed at different institutions from being rewarded at different levels. Next, it was asked if there were other issues related to the current institutions such as the administrations or missions not adequately taken into account in the equity funding distribution. From that point three factors were taken into consideration including a small institution factor, a research factor for the two universities and the maintenance and operation of research facilities at UNLV and UNR. It was the recommendation of the Interim Committee and the Board that funding should be equitable outside of those three factors.

Regent Knecht said the premise of some existing inequity is undermined if a doubling of the number of students causes an eight percent or less economy of scale. He felt the FY 2012 expenditures at the various community colleges were within broad limits appropriate when considering the economy of scale. Similarly, the three percent difference between the universities shows the two institutions are funded at the same level for practical policy purposes when taking the modest economy of scale factor into consideration. His point is the numbers show Clark County institutions have not been shorted.

Regent Knecht asked if there was anything undermining his conclusion the two universities are similarly and comparably funded on a per student basis and that the four community colleges are similarly or comparably funded on a per student basis, allowing for economies of scale based on the most recently completed year data.

Chancellor Klaich did not agree with Regent Knecht's conclusions. With respect to the two universities there was a relatively close comparability of funding but UNR was still funded at a slightly higher level than UNLV. He would not necessarily ascribe the difference to an economy of scale.

Chancellor Klaich also disagreed with Regent Knecht's position that the four community colleges are funded adequately at the present time. Regent Knecht responded he did not say the community colleges were adequately funded but they are funded on a comparable basis if using an eight percent doubling and economy of scale factor.

Chancellor Klaich understood Regent Knecht's position but remained in disagreement. He referred to AB 203 (2003) which found CSN was funded at a subsistence level below any other NSHE institution on a peer basis. The Legislature had begun to fund some of the inadequacy before the economic downfall. Chancellor Klaich said there is a substantial disparity in funding among the four community colleges that cannot be explained away and is attempting to be remedied in the proposed formula before the Board of Regents.

Regent Knecht asked Chancellor Klaich to return to the next meeting with an explanation to his questions in view of reasonable economies of scale and how significant the disparities actually are.

2. Action Taken - 2013-2015 NSHE Biennial Budget (Agenda Item #2) – (Cont'd.)

Regent Knecht also asked Chancellor Klaich to confirm at the next Board meeting if in FY 2007 the intercollegiate athletics General Fund budget for UNR was \$5,589,152 versus \$4,909,982 for UNLV, and if the intercollegiate athletics General Fund expenditures for FY 2013 are budgeted at \$4,935,594 for UNR versus \$7,010,609 for UNLV.

4. Approved - Utilization of Construction Bonding (Agenda Item #4) – The Board of Regents directed the Chancellor and staff to request passage of a bill by the 2013 Legislature to approve issuance of a new series of construction bonds to finance capital projects at UNR and UNLV (Ref. BOR-4 on file in the Board Office).

Chancellor Klaich said one of the industries in the State most ravaged by the economic downturn is the construction industry. The NSHE is trying to spur the economy while doing critical projects for the System. Although State General Fund dollars and bonding capacity is limited there is a possible source of funding in the potential refunding of the slot or pavilion bonds in the neighborhood of \$70 million. Historically those bond proceeds were originally issued by the State of Nevada General Obligation bonds for the construction of the Thomas & Mack Center in Las Vegas and Lawlor Events Center in Reno and then later to fund the maintenance and modernization of athletic facilities at UNLV and athletic/academic facilities at UNR.

Chancellor Klaich said he had asked President Smatresk and President Johnson respectively for recommendations of potential projects to which these funds could be applied. Each president returned with projects exceeding the available potential funding. A plan to divide those projects into reasonable smaller projects could not be accomplished. Given the historical split of the allocation of approximately 60 percent to UNLV and 40 percent to UNR, he recommended the proceeds be split 68 percent, or approximately \$47.5 million, to UNLV to assist in the remodel of the Thomas & Mack Center and 32 percent, or approximately \$22.5 million, to UNR for a number of projects they have put forward in Washoe County and in Clark County. His recommendation is based on a number of issues including the importance of the Thomas & Mack Center as an economic driver of Nevada and the potential for losing significant events if that arena is not renovated. The UNR projects are also valuable and important. Chancellor Klaich said he typically has not tried to map the source of the funds with the expenditure of the funds but asked the Board to note he did take into consideration that 75-76 percent of the tax revenue is generated in Clark County.

Regent Wixom moved approval to direct NSHE staff to request passage of a bill by the 2013 Legislature to approve issuance of a new series of slot tax bonds of which the anticipated proceeds will be distributed 68 percent, or \$47.5 million, to UNLV and 32 percent, or \$22.5 million, to UNR. Regent Page seconded.

4. Approved - Utilization of Construction Bonding (Agenda Item #4) – (Cont'd.)

Regent Crear asked how much of the slot tax revenue is generated by Clark County. Chancellor Klaich said approximately 75 percent.

Regent Crear asked how much of the anticipated funding will stay in Clark County. Chancellor Klaich said approximately 72 percent of the revenue will stay in Clark County.

Regent Page asked if a match has been considered for the University of Nevada School of Medicine in Las Vegas or if it is expected the state will pay the full amount. President Johnson said the state is not expected to pay the full \$230 million and planning will soon begin on preparing a gifting and capital campaign.

Motion carried. Regent Stephens was absent.

5. Information Only - UNLVNow Project (Agenda Item #5) - UNLV President Neal J. Smatresk and Mr. Donald Snyder, Dean, Harrah College of Hotel Administration, UNLV, presented an update to the Board of Regents on the UNLVNow Project including an update and review of the key components of Assembly Bill 335 (AB 335), proposing the creation of a UNLV Campus Improvement Authority. The Board had previously approved the seeking of legislation to create a tax improvement district to support the project. The Board continued its discussion on the substance of AB 335, including the provisions addressing the scope and governing structure of the proposed tax improvement district known as the University of Nevada Las Vegas Improvement Authority (the "Authority") (Refs. BOR-5a and BOR-5b on file in the Board Office).

Dean Snyder said UNLV has exercised its right to terminate the Exclusive Negotiating Agreement with Majestic Reality Company. Dean Snyder said over the course of the various project discussions it has been consistently conveyed the UNLVNow Project is a large, complex project requiring thoughtful consideration and recommendations which take UNLV and the Las Vegas community into consideration as a whole.

Mr. Gerry Bomotti, Senior Vice President of Finance, UNLV, thanked Nevada Assembly Speaker Marilyn Kirkpatrick for sponsoring AB 335. The bill was heard on March 28, 2013, in the Assembly Committee on Taxation and then passed by the Assembly Committee on Ways and Means on April 4, 2013, without modification. However, there have been many discussions on the bill including anticipated tax revenue may not be enough to retire debt on a mega-events center and the need to develop other sources of revenue. Mr. Bomotti said it may make sense for the Board to authorize presentation of a full proposal to the 2015 Nevada Legislature including the concepts of the mega-events center design, functionality, cost, funding and stakeholder agreement.

Mr. Bomotti said AB 335 was structured to meet several important goals including distancing the Board from debt financing and requiring Board authorization for various actions such as naming of Board representatives to the Authority board and entering into agreements such as defining ground leases. As currently listed in the proposed bill, the Authority cannot own the land but can own the improvements made to the land through

5. Information Only - UNLVNow Project (Agenda Item #5) – (Cont'd.)

authorized agreements with the Board of Regents. As introduced, the bill indicates the Board of Regents must appoint its members to the Authority by the end of August 2013 or the tax district essentially ends. In addition, if the Board of Regents has not reached formal agreement with the Authority by the end of June 2017 the tax district would end at that time.

Mr. Bomotti said AB 335 as introduced establishes the membership of the Authority board as nine members. Four of those members will be appointed by the Board of Regents further clarifying the non-recourse relationship of the Board to the project. AB 335 as introduced requires six votes for any action to be taken by the Authority.

Regent Trachok asked if the proposed tax district will encompass the UNLV campus. Mr. Bomotti responded the tax district is described as the land within the boundaries of Maryland Parkway, Flamingo Road, Swenson and Tropicana that is owned by the Board of Regents or held through a ground lease with 20 years remaining.

Regent Trachok asked if the tax district would be taxing the University on the Board of Regents' own land. Mr. Bomotti said the incremental tax revenue above the exiting tax base would go to the tax district and have to be authorized by the Board. Currently some taxes are collected such as sales tax on some activities in the bookstore and through food service as well as on some live entertainment for some activities in the Thomas & Mack Center. The expectation is the students will not be charged. However, if there is retail in the mega-events center then the sales tax increment authorized through the agreement between the Board of Regents and the Authority would then go to the tax district.

Regent Crear asked if the Authority would report to the Board of Regents. Mr. Bomotti said the Authority would not report to the Board of Regents but would include Regent members.

Regent Crear asked if the Authority would decide how those funds are distributed on UNLV's campus. Mr. Bomotti responded yes but only under authorized agreements between the Board of Regents and the Authority.

Regent Crear asked if the agreements would be authorized by the Regent members sitting on the Authority's board or if the Authority would have to seek approval from the full Board of Regents. Mr. Bomotti said in order for the Authority to do anything including the building of a facility, the Board of Regents would have to authorize a lease and other documents describing the authority and limitations for use of the funds generated in the tax district. The bill is intended to carefully balance an arms-length relationship between the Board of Regents and the Authority while allowing the Board some direct impact on what can be constructed and done on the UNLV campus.

Regent Crear requested an explanation for the purpose of an arms-length relationship between the Board and the Authority. Mr. Bomotti said the arms-length relationship was important so financing for the mega-events center does not end up on the NSHE's

5. Information Only - UNLVNow Project (Agenda Item #5) – (Cont'd.)

balance sheet or considered by rating agencies as debt and thereby possibly eliminating the System's ability to seek financing for other projects going forward.

Regent Crear asked how the Board could ensure its accountability and responsibility to the UNLV campus. Mr. Bomotti said it is not possible to establish a non-recourse arms-length agreement between the Board and the Authority and have the Board maintain 100 percent control. However, the controls provided through the bill include having four out of nine members of the Authority representing the Board of Regents and requiring an agreement for any activities on property owned or controlled by the Board of Regents. It was felt the implications for the rest of NSHE were too significant to make the issuance of debt for a mega-events center a viable option for the Board of Regents.

Regent Crear asked if the Board of Regents could appoint the UNLV president a seat on the Authority's board. Mr. Bomotti said the bill, as drafted, allows the Board of Regents four seats. The Board could appoint three Regents and then appoint the president or an executive of UNLV or even the System as the fourth.

Regent Crear asked if the president of UNLV would need to approve any activity on the UNLV campus even if he or she does not sit on the Authority's board. Mr. Bomotti responded that would be technically untrue. If there is a lease agreement between the Board of Regents and the Authority, then the Authority has the authorization to move forward on any activities agreed upon through that lease. It is anticipated UNLV would have been involved in negotiating the agreement. However, if an issue arose on the campus that the president did not like, it is possible the Authority could still move forward.

Bond Counsel John Swendseid, Swendseid and Stern, said the Board of Regents' control is within the written agreements as specified by the Board. The Board could require monthly reports or it could require the approval of the UNLV president on all activity.

Regent Wixom said he was strongly in favor of the organizational concept of the bill. He asked if the Board of Regents ultimately has to approve what will be done with the funds generated by the tax district although it does not have control over the Authority. Mr. Swendseid said the funds go to the Authority but the Authority cannot undertake anything with those funds without a written agreement with the Board of Regents.

Regent Wixom felt there is a significant difference between the Authority created in AB 335 and the existing structure of the Las Vegas Convention and Visitors Authority (LVCVA). Mr. Swendseid said the proposed structure was a relatively new concept and one the Board of Regents has never engaged in before.

Regent Wixom said creation of a tax district would be an important tool to provide the Board with important flexibility as NSHE moves forward.

5. Information Only - UNLVNow Project (Agenda Item #5) – (Cont'd.)

Regent Knecht said the members of the Authority's board would be comprised of four appointed by the Board of Regents, one appointed by the Governor, one appointed by the LVCVA and one by the Board of Clark County Commissioners. Those seven members would then appoint two other members. The Board of Regents could effectively block any proposed action through its four Regent members on the Authority's board if a minimum of six out of nine votes are required. He felt the structure is meant to provide as much flexibility and authority while in some sense meeting the letter of the law to keep the Board from recourse. Mr. Swendseid said it is more than just keeping the Board from the liability of recourse. It is to keep the Authority from being treated as an entity whose financials are consolidated under the Board of Regents.

Regent Knecht asked how secure the Board could be that a court would not attribute the debt to UNLV, and therefore the System, given the rapidly changing rules and trends in generally accepted accounting principles. Mr. Swendseid felt enough protection had been provided in the statutes so as a matter of Nevada law the Regents will not be responsible for the Authority's debt.

Mr. Swendseid said all of the limitations were reviewed by the Controller of UNLV to make sure the debt could not be consolidated under the Board given generally accepted accounting principles. UNLV's controller explained the concept to the external auditors and requested a current opinion. The external auditors responded they were fairly confident it would not be their opinion the financing would be on NSHE's financial statements.

Mr. Bomotti added there had been some discussion by the Assembly Committee on Taxation whether or not the Legislature would like to appoint representation to this Authority as well. Those discussions may result in an amendment to the original bill.

Regent Stephens returned to the meeting.

Regent Melcher asked who benefits from the current tax base. Mr. Bomotti said taxes currently collected on the UNLV campus, including at Sam Boyd Stadium, are approximately \$900,000. Most of that revenue is generated by the live entertainment tax. Nevada statute is applied depending on who the contract is with. For example, as a tax-exempt entity, the National Finals Rodeo is exempt from the live entertainment tax but the Bull Riders Association is not. Taxes are collected for the Bull Riders Association and remitted to the state in addition to some applicable sales taxes activity in the bookstore and from food service. If the bill is approved the tax increments would be derived from the tax base created for FY 2013.

Regent Melcher asked if the effect of inflation and the impact of having tax revenues go to the General Fund had been taken into consideration. Mr. Bomotti responded although sales tax is collected and redistributed back through the General Fund, the tax increment would be collected and distributed directly to the created Authority.

5. Information Only - UNLVNow Project (Agenda Item #5) – (Cont'd.)

Regent Crear asked if the Authority would only have influence over the mega-events center and the entertainment district. Mr. Bomotti said the bill is currently drafted to include the entire campus in the tax increment district. The Authority would have authorization for activities on property owned or controlled by the Board of Regents only with the Board's approval.

Regent Crear asked if the improvements will be turned over to the Board of Regents when the Authority has paid off the debt. Mr. Bomotti responded that was correct.

Regent Crear said although the bill speaks of prevailing wage and the competitive bid process it does not include any of the supply chain inclusion issues addressed by the Regents' Cultural Diversity Committee over the last six years such as minority owned businesses, diversified businesses, disadvantaged businesses, veteran businesses and so forth. He asked how the Board of Regents could hold the Authority responsible to comply with those types of requirements. Mr. Bomotti said although most of those provisions are required by state law, additional Board mandates, policies or direction could be included through the negotiation process.

Regent Crear asked if it would be possible for the Board to establish goals or thresholds involving supply chain inclusion as the project moves forward. Mr. Swendseid said those issues are before the Supreme Court every year but within the limits of the law such thresholds could be established.

Regent Crear said he wanted all future agreements presented to the Board for its consideration to include goals and thresholds addressing not only prevailing wage and the competitive bid process but also various supply chain inclusion issues such as minority, disabled or veteran businesses.

Regent Anderson asked if the proposed organizational structure contained in AB 335 is similar to a redevelopment agency with the difference being the use of sales tax instead of real estate taxes. Mr. Swendseid said that would be true until the year 2065. Mr. Bomotti said, as written, AB 335 indicates the state has to backstop all revenues listed as increment through 2065 for financing. However, if after 2065 the tax structure of the state changes and some of those taxes are still listed, then the state has the ability to collect. Issues involving the expiration date have been raised by legislators.

Regent Page asked that a PLA be considered for inclusion in all agreements. Mr. Bomotti indicated a PLA was not required by state law but could be considered in any agreement approved by the Board.

Regent Knecht expressed concern for the inclusion of PLAs and asked that he be notified in a timely manner if it appeared a PLA will become part of a negotiation. Mr. Bomotti said it would be included in any agreements presented to the Board for its review and consideration. He is aware of other agencies having used a PLA with some success although it has not been included in any UNLV project negotiations to date.

5. Information Only - UNLVNow Project (Agenda Item #5) – (Cont'd.)

Regent Knecht asked the Board be allowed to review any contract or agreement including PLAs or prevailing wage provisions. He also requested data on the economic impact and cost-in-time increase expected from those contractual aspects.

Regent Leavitt said obviously a relationship with Majestic Reality Co. had been severed and asked for an update on the status of the project. Dean Snyder said AB 335 is important because it empowers a process. Stepping away from Majestic Reality Co. had nothing to do with the company itself. When the project evolved from being a UNLV-centric project to one involving regional and resort industry concerns, it became clear there needed to be a direct relationship between UNLV and the resort industry. Pursuant to AB 335, the Authority board will be created within 90 days following the end of the legislative session. After the Authority board is created, 18 months will be spent preparing a process to bring the Authority board together with stakeholders to review the work done through the Economic Impact Study, what type of project needs to be envisioned to meet the needs of UNLV and the resort industry, and to begin a detailed process for planning and cost estimates. A clearly defined project scope and funding plan will need to be ready for presentation to the 2015 Session of the Legislature in order to move the project forward.

Regent Stephens said she shared Regent Crear's concern for the supply chain inclusion issues. She also felt it was problematic for an academic campus and institution of higher education to meet the needs or be in competition with the resort industry. She said it was important to remember UNLV is an academic institution.

Regent Stephens questioned the decision to terminate the agreement with Majestic Reality Co. Vice Chancellor Nielsen said Regent Stephens question touched on a matter that was not within the scope of the agenda item as written.

Chair Geddes said the discussion can continue in regard to the structure of the Authority board but could not be specific to Majestic Reality Co.

Regent Stephens said her questions regarding the resort industry related to Majestic Reality Co. She questioned how a publicly noticed meeting is required to enter into a contract but not to terminate one and how a business partner could be excluded from proposed legislation without a Board meeting.

Vice Chancellor Nielsen felt the specific discussion proposed by Regent Stephens requires a different discussion at a future meeting. She said Regent Stephens' question is not within the scope of AB 335. In addition, public notice would need to be given to Majestic Reality Co. before such a discussion could occur.

Chair Geddes asked Regent Stephens to contact staff to discuss the necessary agenda item language for a future meeting.

5. Information Only - UNLVNow Project (Agenda Item #5) – (Cont'd.)

Regent Stephens said she could not move forward with this particular agenda item without being able to discuss what has occurred with the private development partner Majestic Realty Co.

Mr. Bomotti said pending the passage of AB 335 and creation of the Authority board the Board of Regents will be involved in the selection of construction and design partners. Mr. Bomotti felt Regent Stephens highlighted an important point that the project is being pursued because it benefits UNLV as a campus. A completed mega-events center will provide many direct benefits to UNLV and will allow the Student Village development to move forward.

The meeting recessed at 12:55 p.m. and reconvened at 1:22 p.m. on Friday, April 19, 2013, with all members present except Regents Doubrava, Stephens and Wixom.

Chair Geddes thanked President Smatresk and the UNLV staff for hosting the Board meeting.

6. Approved - PEBP Task Force (Agenda Item #6) – The Board of Regents approved its position to support the PEBP Task Force to continue to work with PEBP and to encourage PEBP to explore programs and options for improved benefits.

Vice Chancellor Yackira and UNLV Senior Vice President Gerry Bomotti presented an update on Nevada System of Higher Education (*NSHE*) activities relating to the Public Employees Benefits Program (*PEBP*).

Prior to discussion of this item, Regent Anderson disclosed prior to serving as a Regent she retired from the College of Southern Nevada. She and her husband continue to receive limited benefits under the PEBP as a retiree. The Board will be asked for its support and approval of the System's efforts to work with the PEBP to explore programs for improving benefits for all NSHE employees. Any resulting benefits or detriment accruing to her as an individual member of the PEBP is not greater than that accruing to any other member of the group of NSHE PEBP members. Thus, it is statutorily presumed that the independence of judgment of a reasonable person would not be materially affected by this relationship. As a consequence, pursuant to the provisions of NRS 281A.420, and advice of counsel, she will participate in the discussion of, and any action on, this item that is before the Board.

Prior to discussion of this item, Regent Melcher disclosed he is a member of the PEBP, though not an NSHE member of PEBP. After consulting with Special Counsel Wasserman, he will also participate in the discussion of, and any action on, this item before the Board.

Prior to discussion of this item, Regent Knecht disclosed he is a member of the PEBP, though not an NSHE member of the PEBP. After consulting with Special Counsel

6. Approved - PEBP Task Force (Agenda Item #6) – (Cont'd.)

Wasserman, he will also participate in the discussion of, and any action on, this item before the Board.

Vice Chancellor Yackira said the PEBP Task Force has actively participated in the PEBP Board meetings through public comment. An analysis conducted by healthcare consultant BBI was brought forward to the PEBP Board. However, only data on the PEBP's NSHE participants was available. Some assumptions had to be made with respect to where NSHE participants stand in relation to the rest of the PEBP participants based on publicly available information.

Vice Chancellor Yackira said the Chair of the PEBP Board has agreed to move forward to test the market based on a few options including recommendations proposed by the NSHE's healthcare consultant. To move forward with the testing it would be helpful for the PEBP Board to have formal action by the Board of Regents in support of continuing to work with PEBP to explore programs and options for improving benefits for all NSHE employees.

Mr. Bomotti said one of the positive benefits of the analysis was it strongly encouraged the PEBP to start gathering data on all employees to create a better position from which to negotiate costs going forward. As data was received, BBI worked with vendors to determine prices for fully insured programs. The analysis of two years' worth of data revealed the same two programs, including the consumer driven high deductible and the health maintenance organization, could be purchased for NSHE individuals in at least a 17 to 27 percent range of savings. However, the NSHE cannot separate from the PEBP under state law.

The PEBP appears reasonably supportive of testing the market this fall with private exchange models but could use the Board of Regents' support. It is anticipated any better options will have been determined by and rolled out during the July 1, 2014, open enrollment period.

Regent Page moved approval to support the PEBP Task Force to continue to work with PEBP and encourage PEBP to explore programs and options for improved benefits. Regent Trachok seconded.

Regent Knecht asked if the reason why NSHE PEBP members might get a better deal by going out to bid is essentially the difference between their demographic characteristics and the demographic characteristics of the wider pool. Mr. Bomotti responded the data from PEBP was not available to make a determination whether or not NSHE as a pool is lower risk and therefore could negotiate less expensive coverage or if the entire PEBP pool could do better as a whole. The motion provides an opportunity for the PEBP to test the theory and to answer the question on how the entire PEBP pool compares to what is currently being offered internally.

6. Approved - PEBP Task Force (Agenda Item #6) – (Cont'd.)

Regent Knecht felt it could be extrapolated there is an impact due to the demographic differences or the PEBP has not done as well as it could in bidding out the options. Mr. Bomotti said with the data available the NSHE knows its pool would be able to save a significant amount of money. However, it could be argued the NSHE is at an advantage and its separation from the pool would cost everyone else more money.

Regent Page asked if the data was not available because it was not collected. Mr. Bomotti responded it was surprising in today's healthcare market that there was not a central location to look at all the experience data.

Motion carried. Regents Doubrava, Stephens and Wixom were absent.

7. Approved – Staff to Bring Forward Handbook and Procedures & Guidelines Manual Revision, Vacancies of System Officers – President Appointment and/or National Search; Provost National Search (Agenda Item #7) - The Board of Regents approved staff preparing for final Board approval of the June Board meeting a proposed policy revision addressing vacancies in the office of president and best practices in appointing president search committees and provisions requiring national searches when a vacancy occurs in the office of provost (Handbook, Title 2, Chapter 1, Sections 1.5.4 and 1.5.5 and Procedures and Guidelines Manual, Chapter 2, Section 1) with an amendment to proposed Handbook revision, Title 2, Chapter 1, Section 1.5.4(e)(2) to delete superfluous phrase, an amendment to Title 2, Chapter 1, Section 1.5.4(f) reflecting “up to three administrators” be appointed as institutional advisory and without Alternative A as presented but with the requirement for a two-thirds vote of the full Board to appoint an interim president (Refs. BOR-7a; BOR-7b; and BOR-7c on file in the Board Office).

Chief of Staff and Special Counsel to the Board Scott Wasserman said he had reviewed the minutes and audio recording of the October 19, 2012, meeting of the Board at which the proposed policy revisions were first reviewed. The Board's suggestions were incorporated into the proposed policy revisions, including:

Decision Unit #1 – Officer in Charge – The Chancellor's Office now has on file a succession plan from each institution designating campus authority consisting of three persons currently serving the institution, that are, in the order listed, deemed to be the officer in charge should a temporary absence or vacancy occur in the office of president.

Decision Unit #2 – Chancellor's Recommendation of Acting President – Codifying Current Practice – When a vacancy occurs in the position of president of a member institution, the chancellor and the chair of the board visit the involved campus to meet with the major constituencies to receive suggestions and input for the recommendation of an acting president. Although this not a Board action, it does occur prior to a Board meeting.

7. Approved - Staff to Bring Forward Handbook and Procedures & Guidelines Manual Revision, Vacancies of System Officers – President Appointment and/or National Search; Provost National Search (Agenda Item #7) – (Cont'd.)

Decision Unit #3 – Track A - National Search (*Appointment of an Acting President*) or Track B - Appointment of an Interim President – At the time the Board considers the chancellor's recommendation for the appointment of an acting president who will not be eligible for consideration as a candidate for the permanent appointment, the Board shall also determine whether a national search shall be conducted immediately (*Track A*), or if an interim president shall be appointed to a specified term of one to three years (*Track B*). The chancellor's recommendation for acting president may be considered for the interim position. An interim president must serve a year before the Board may consider making the appointment permanent and the Board shall, at a public meeting, first allow and consider input from the institution's major constituencies. Prior to the last year of the term of an interim president appointed to a multi-year term, or prior to the end of the year of an interim president appointed to a one year term, the Board may conduct a periodic evaluation of the interim president consistent with the Board policy governing periodic evaluation of NSHE presidents. If at any time during the term of the interim president, the Board determines not to appoint the interim president to the permanent position, the Board may direct that a national search be conducted and the interim president will not be eligible for consideration as a candidate for the permanent position.

Regent Knecht asked if hiring of a search consultant would be discretionary to the search committee or the appointing authority. Mr. Wasserman said the existing policy will continue allowing the search committee to make the determination whether it wants a search consultant or not.

Regent Leavitt asked if the proposed policy allows the Board to put someone in as an interim president and then in three to six months decide to appoint that interim as the permanent. Mr. Wasserman said the proposed policy limits the Board's ability to appoint an interim president to the permanent position for at least one year.

Regent Leavitt asked why the Board would limit its ability or restrict its flexibility to appoint an interim president to the permanent position sooner than one year. Mr. Wasserman said there were two purposes for the proposal. The first reason relates to the recommendation an interim president should receive an evaluation for the Board's consideration before it moves forward with a decision to offer a permanent position. It would not be practical to conduct an evaluation for a period of less than one year. Secondly, every rule has an exception, with the proposed policy being no different. A provision has been included requiring exceptions to the policy be approved by a two-thirds vote of the Board in response to the many concerns for when and how exceptions are made.

Regent Anderson liked the proposed policy because it allows the Board more time to evaluate an interim president and helps prevent the loss of good outside candidates from applying in the search.

7. Approved - Staff to Bring Forward Handbook and Procedures & Guidelines Manual Revision, Vacancies of System Officers – President Appointment and/or National Search; Provost National Search (Agenda Item #7) – (Cont'd.)

Regent Trachok asked if the other boards canvassed require an interim president to serve one year before a decision can be made to permanently hire. Mr. Wasserman said the proposal for a minimum of one year was a result of the Board's previous discussion in addition to a review of other board's policies and recommendations of the Association of Governing Boards (AGB).

Regent Trachok asked if an interim president with a one to three year term negatively impacts the institution. Mr. Wasserman said the presidents indicated there is a perceived level of instability when an institution is headed by an interim president. He felt the proposed clarification of an acting president verses interim president will be helpful.

President Johnson perceived a difference in how he had been treated by community members as an interim president. He encouraged the Board to minimize the amount of time an interim president is in charge.

President Patterson felt an interim president has more of ability to take action. He would not want an acting president's term to be very long.

Mr. Wasserman said the AGB also cautions against acting in haste. There will always be a period of uncertainty while conducting a national search. However, the proposed policy allows for a separation between the role of an acting and interim president.

Regent Melcher asked if the proposed policy could be amended to allow the Board to appoint an interim for one year with the ability to extend the term if necessary. He felt three years would be an extreme. Mr. Wasserman said even under a three year term it is really a two year period with an evaluation occurring at the end of the second year.

Regent Trachok asked if any institutions hire provosts with the mindset the provost would be stepping into the president position. Mr. Wasserman said there is clearly a portion of the higher education community looking to succession planning rather than simply relying on national searches to find the next president. He said one of the next policy proposals addresses the hiring of provosts and/or succession planning.

Decision Unit #4 – Regents' Presidential Search Committee – There would be no change to the makeup of the Regents' President Search Committee or the institutional advisory members. The proposed policy revision clarifies there is one Regents Committee with institutional advisory members serving as non-voting members to advise the voting Regent members on matters being considered.

Decision Unit #5 – Role of the Regents' Presidential Search Committee - The proposed policy revisions include moving provisions contained in the *Procedures and Guidelines Manual* to the *Handbook* for a more consolidated and clear policy. The proposed *Handbook* policy indicates if the Board determines not to appoint the nominee(s) recommended by

7. Approved - Staff to Bring Forward *Handbook and Procedures & Guidelines Manual* Revision, Vacancies of System Officers – President Appointment and/or National Search; Provost National Search (Agenda Item #7) – (Cont'd.)

the Regents' Presidential Search Committee, it shall direct the committee to continue the search process and to recommend an additional nominee for consideration by the full Board of Regents.

Alternative A to Decision Unit #5 states the Regents' Presidential Search Committee will select three to five unranked nominees as finalists to be interviewed by the full Board of Regents for consideration by the full Board for appointment to the permanent position (Page 9 of 9, Ref. BOR-7 on file in the Board Office).

Also being proposed is clarification the Chancellor's Office and the Board Office shall provide staff assistance to the committee. The chancellor shall, in accordance with directions from the committee and in consultation with the committee chair, either directly, or by consultation if a search firm is hired, be responsible for the initial screening process to determine candidates for consideration by the committee.

Decision Unit #6 – AGB recommends flexibility to address specific circumstances – A new section has been recommended stating that by affirmative vote of not less than two-thirds of the members of the Board, the Board may authorize deviations from the processes defined in the policy proposal.

Decision Unit #7 – Requiring a national search for provosts – Removes provisions from the *Procedures and Guidelines Manual* that have been relocated to the *Handbook* and recommends one new section stating that in the case of a vacancy in the position of provost at a member institution, unless an exception is approved by the Board of Regents, the institution shall conduct a national search for the purpose of recruiting and screening candidates for the position for consideration of appointment by the institution's president. As used in this paragraph, "provost" means the second highest ranking executive and administrative officer of the universities or state college.

Regent Trachok asked if conducting a national search presupposes the use of a consultant. Mr. Wasserman stated it does not. Chair Geddes said a national search is to ensure the System is adhering to the need for diversity.

Regent Melcher requested an amendment to proposed Title 2, Chapter 1, Section 1.5.4(f) to state "The chair of the Board of Regents shall also appoint institutional advisory members to the committee from the member institution involved to include five faculty members nominated by the senate, *up to* three administrators, one classified or technical employee nominated by the classified or technical employees' organization, if any, and, one undergraduate student representative and one graduate student representative nominated by the appropriate student government as applicable to the institution involved, and one alumnus."

7. Approved - Staff to Bring Forward Handbook and Procedures & Guidelines Manual Revision, Vacancies of System Officers – President Appointment and/or National Search; Provost National Search (Agenda Item #7) – (Cont'd.)

Regent Crear asked if the Board has a choice between appointing an acting or an interim president. Mr. Wasserman responded that was correct.

Regent Crear asked if the acting president will be able to participate in the search and/or become a permanent president. Mr. Wasserman stated the acting president would not be eligible to become the permanent president if the Board chooses to go the route of appointing an acting president.

Regent Crear said history has shown the Board will bypass the Code in order to appoint the acting president as the permanent president. Mr. Wasserman stated under the proposed provisions a two-thirds majority vote of the Board must be received in order to authorize deviations from the process as defined in the policy. He noted such action could also be taken under existing policy.

Regent Crear asked if the interim president can be a candidate in a national presidential search. Mr. Wasserman stated if the Board is planning to do a search, it will appoint an acting president under the proposed provisions. If the Board has a candidate in mind, then it will appoint that person as interim president and then in up to two years it can conduct an evaluation to consider the appointment of the interim as permanent or it can decide at that time to conduct a national search.

Regent Crear said there is no need to bypass the Code to appoint an interim president. Mr. Wasserman said not if the Board approves the proposed policy. The policy gives the Board the authority to make that decision upfront.

Regent Crear asked if there was any provision stating the Board has to conduct a search. Mr. Wasserman said the current policy states in the event of a vacancy the board chair will appoint a president search committee. What has happened in the past is the Board has made the decision to bypass the Board's procedure and has made a decision to appoint an interim president.

Regent Crear felt the proposed policy revisions made it easier to bypass the search process. Mr. Wasserman said it is not necessarily an issue of being easier or more difficult but the Board would have previously required a vote to bypass the process. Under the provisions of the proposed policy the Board is authorized to appoint an interim president without bypassing the Code.

Chair Geddes felt an additional amendment could be added to require a two-thirds vote for the appointment of acting or an interim president. The policy also includes provisions for a search for an executive vice president or provost. Those candidates will have had to go through a national search.

7. Approved - Staff to Bring Forward *Handbook and Procedures & Guidelines Manual* Revision, Vacancies of System Officers – President Appointment and/or National Search; Provost National Search (Agenda Item #7) – (Cont'd.)

Mr. Wasserman recommended requiring a two-thirds vote on the appointment of an interim president. The provision for conducting a search for the provost simply states there must be a national search unless the Board makes an exception. He felt Chair Geddes was suggesting the provost would have to be in their position as a result of a national search.

Regent Trachok moved approval of staff preparing for final Board approval of the June Board meeting, proposed policy revisions addressing vacancies in the office of president and best practices in appointing president search committees and provisions requiring national searches when a vacancy occurs in the office of provost (*Handbook, Title 2, Chapter 1, Sections 1.5.4 and 1.5.5 and Procedures and Guidelines Manual, Chapter 2, Section 1*) with an amendment to proposed *Handbook* revision, Title 2, Chapter 1, Section 1.5.4(e)(2) to delete a superfluous phrase, and an amendment to Section 1.5.4(f) reflecting “up to three administrators” be appointed as institutional advisory members and without Alternative A. Regent Anderson seconded.

Regent Trachok said if the Board is going to go the route of an interim president then he liked the idea of the Board governing the provost search process.

Regent Leavitt offered a friendly amendment to require two-thirds vote of the Board to appoint an interim president.

Regents Trachok and Anderson accepted the friendly amendment.

Regent Page liked Alternative A because it creates an interesting situation. Six of the 13 Board members will be sitting on the committee but Alternative A would require the candidates recommended by the committee to be interviewed and considered by the full Board.

Regent Melcher said although he understood the value of having the full Board conduct candidate interviews there are other pieces of the search process the full Board would not have had the benefit of such as with the community forum and feedback. He felt each member of the Board not serving on a committee could still attend committee meetings.

7. Approved - Staff to Bring Forward Handbook and Procedures & Guidelines Manual Revision, Vacancies of System Officers – President Appointment and/or National Search; Provost National Search (Agenda Item #7) – (Cont'd.)

Regent Leavitt said as a lay board the Board of Regents relies on a committee structure. In his eight and half years as a Board member he has never second guessed a decision made by a committee. Although not perfect, the full Board needed to respect the committee process unless it was willing to function as a committee of the whole.

Regent Page added the process needs to also include a better job of vetting the search consultants. He suggested keeping a summary report of the process conducted by each search consultant for future reference.

Regent Leavitt said he would not be troubled by the full Board's participation in the interview of the search consultant.

Motion carried. Regent Crear voted no. Regents Doubrava, Stephens and Wixom were absent.

8. Information Only - Board Oversight of Intercollegiate Athletics (Agenda Item #8) - Mr. R. Scott Young, Deputy Chief of Staff to the Board of Regents, presented an informational overview of Board intercollegiate athletic governance issues, including existing Board policy and best practices relating to oversight of intercollegiate athletics and outlining topics the Board may wish to explore in more detail at future Board meetings (Ref. BOR-8 on file in the Board Office).

Mr. Young said much of the material in the reference document comes from AGB studies conducted in 2007, 2009 and 2012, in which they looked at best practices and questions boards may want to ask themselves about existing policies and whether or not those policies were adequate to meet the goals the board established. Mr. Young said from a recent AGB webinar there were two aphorisms 1) boards should keep their noses in and their fingers out of intercollegiate athletics, and 2) you don't know what you don't know. There is a level of delegation appropriate for boards while also making sure they receive adequate information for appropriate oversight.

Mr. Young noted a revised version of the briefing paper will be distributed the following week to reflect recent Board policy changes (*on file in the Board Office*).

Chair Geddes said institutions with intercollegiate athletics will be solicited for their review and input as the Board moves forward with potential policy recommendations.

Regent Knecht held reservations on the effectiveness and performance of search consultants for presidents and provost but even more so for athletic directors and coaches. He said the Board needed to be careful in selecting search consultants particularly in the area of athletics.

8. Information Only - Board Oversight of Intercollegiate Athletics (Agenda Item #8) – (Cont'd.)

Regent Trachok asked for the proposed policy revisions to include a provision requiring the president and athletic director to present the athletic budget to the Board for review. Secondly, he asked for the contractual limits requiring Board approval be raised to a term of three years and the total compensation including bonuses not to exceed \$1.2 million.

Regent Anderson said after reading through the reference material and the AGB recommendations she felt the Board should continue with its current policy and process with a few exceptions: 1) increase the amount of a contract that can be approved by a president before the request has to come to the Board, particularly high profile coaches such as the athletic director, football coaches and basketball coaches; and 2) that NSHE's general counsel should be involved in preparing the contracts throughout the system.

Regent Melcher said he had no problem with athletic directors and coaches being present during the Board's discussion of their contracts so long as the Board has taken care of its business before it considers the contract. He felt the Board addressing its philosophical issues before the candidates make it difficult. He also requested provisions be included to establish a process for how the Board is to nominate any individuals.

Regent Page agreed with Regent Trachok's recommendation for an increase in contract terms and salary limits requiring Board approval with the exception that all athletic director contracts which he felt should come before the Board.

Regent Crear felt there was no consistency in addressing the various issues within intercollegiate athletics including diversification of searches, consistency of contracts, inclusion of punitive damages and other negotiation aspects. He understood every institution was not the same but felt there had to be some protections for the institution and the System as a whole.

Chair Geddes said he and Vice Chair Page had worked with the athletic directors and general counsels at UNLV and UNR to develop a uniform employment contract for athletics staff. He said Mr. Wasserman could bring review of those standard athletic contracts to the Board as an agenda item.

Regent Page said final candidates for the position of athletic director or coach are not announced publicly as the presidents are. Chair Geddes felt such an announcement could chill the candidate pool.

Regent Page felt more information was reported through the media than the Board received in internal communication.

Regent Knecht agreed the finalist candidates should be publicly announced. However, he felt with NSHE's strong need for diversification it should not obsess about standardization.

Regent Crear felt search consultants are more interested in finding jobs for their clients than they are in doing what is in the best interest of the hiring institution. Chair Geddes

8. Information Only - Board Oversight of Intercollegiate Athletics (Agenda Item #8) – (Cont'd.)

said options to address that aspect of hiring a search consultant could be researched and brought back to the Board at a future meeting.

Regent Page felt search consultants should be required to appear before the Board.

9. Information Only - New Business (Agenda Item #9) - Regent Knecht said the minutes of the May 19, 1993, Board of Regents meeting reflect a “marriage” of the College of Agriculture, Biotechnology and Natural Resources and the University of Nevada Cooperative Extension at the UNR College of Agriculture. Then at the January 14, 1999, meeting an announcement was made that the two programs were separated. Regent Knecht asked that the reorganization of the two programs be discussed, debated and fully vetted by the Board at its next meeting. Chair Geddes asked Regent Knecht to forward him the information referred to.

Secondly, Regent Knecht requested a discussion and potential action item on the next agenda to discuss the number of NSHE staff or representatives sitting at one time in the various legislative hearings and elsewhere.

10. Information Only - Public Comment (Agenda Item #10) – None.

The meeting adjourned at 2:58 p.m.

Prepared by: Jessica C. McMullen
Special Assistant and Coordinator to the Board of Regents

Submitted by: R. Scott Young
Deputy Chief of Staff to the Board of Regents

and

Scott G. Wasserman
Chief of Staff and Special Counsel to the Board of Regents

Approved by the Board of Regents at the July 19, 2013, meeting.