

**BOARD OF REGENTS  
MINUTES OF THE MEETING  
January 26, 2018**

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**BOARD OF REGENTS  
MINUTES OF THE MEETING  
Board of Regents Central Office (Teleconference)  
Pierre, South Dakota  
January 26, 2018**

The South Dakota Board of Regents convened by teleconference at 4 p.m. Central Time on January 26, 2018 with the following members in attendance:

**ROLL CALL:**

Conrad Adam – PRESENT  
John Bastian, Secretary – ABSENT  
Jim Morgan – PRESENT  
Pam Roberts – PRESENT  
Randy Schaefer – PRESENT\*  
Jim Thares – PRESENT  
Joan Wink – PRESENT  
Kevin Schieffer, Vice President – ABSENT  
Bob Sutton, President – PRESENT

\*Regent Schaefer joined after the roll call vote.

Also present were Mike Rush, Executive Director and CEO; members of the system office and other members of the regental system.

Regent Sutton called the public meeting of the Board of Regents to order at 4 p.m. and declared a quorum present.

**APPROVAL OF THE AGENDA**

IT WAS MOVED by Regent Adam, seconded by Regent Roberts, to approve the agenda as published.

**ROLL CALL:**

Adam – AYE  
Bastian – ABSENT  
Morgan – AYE  
Roberts – AYE  
Schaefer – ABSENT\*  
Thares – AYE  
Wink – AYE  
Schieffer – ABSENT  
Sutton – AYE

\*Regent Schaefer joined later in the meeting.

Motion Passed.

## 2018 LEGISLATIVE SESSION UPDATE

Dr. Rush provided an update on bills of interest.

- **SB 109** – He said SB109 is a bill that would repeal licensing requirements for interpreters of the deaf. He noted that we intend to oppose this bill as it is strongly opposed by the deaf community and by the School for the Deaf.

Superintendent Kaiser further explained the concerns of the deaf community with SB109.

Regent Morgan asked if there is any background to explain the genesis of the bill. Dr. Rush said we will do some background checking to understand the reasoning.

The Board did not express any objections.

- **SB103** – He said SB103 is a bill that would prohibit aliens who are not lawfully in the US from attending any public postsecondary institution. It would also require the regents to create a verification process. He noted that the bill was assigned to the Senate Education committee but there has been no hearing date established yet.

Dr. Rush explained that we intend to oppose SB103. He said the universities do not make a determination of whether a student is illegally in this country as that is a federal determination and our institutions are not equipped to make that judgment. Institutions do ask applicants who self-identify in the application for admission as non-US citizens to provide documentation for the limited purpose of determining eligibility for resident tuition. If they do not provide sufficient documentation to establish eligibility for resident tuition, we charge them out-of-state tuition as required by South Dakota law. We have very few applicants who do not provide documentation so do not believe this is an issue for South Dakota public higher education institutions. We also do not believe universities should play the role of immigration police. We are simply not equipped to do so.

Regent Wink asked that we do not use the term alien in our response to legislators as she feels it is a derogatory term.

General Council Guilherme Costa said alien is defined in federal law and is still used in statute, which is probably why the authors penned the legislation with this term. That said, Dr. Rush clarified that we do not use the term alien in our official statement.

The Board did not express any objections to the response to SB103 as stated by Dr. Rush.

- **SB87** – Dr. Rush explained that this bill would prevent posting any building, campus, park, etc. as a gun free zone unless said site has a metal detector or trained security personnel. Dr. Rush said SB87 would be extraordinarily problematic for our institutions. He explained that we opposed the bill in Senate Judiciary the day before but it passed that committee. It will be heard on the Senate floor on Wednesday, January 31.

DSU President José-Marie Griffiths explained that she spoke with Senator Jordan Youngberg about their concerns with this bill. Dr. Rush urged the other institutions to speak to their local legislators over the weekend.

- **HB1122** – Dr. Rush said this bill would require all tuition and fees to be approved by the legislature. He noted that this bill is assigned to House Education, and he intends to oppose it.

The Board expressed no objections to the proposed position.

- **SB80** – Dr. Rush said SB80 would create term limits for the members of the Board of Regents at two 6-year terms. It would also allow reappointment after a two year break. A friendly amendment to the bill, which was passed on Thursday, inserts language that specifies that partial terms would not count.

Dr. Rush explained that this he supported this bill on behalf of President Sutton at Senate Education this Thursday and noted that the bill will be on the senate floor on Wednesday.

Regent Morgan said he was under the impression that there were already similar term limits established. Dr. Rush said there has never been a statutory limitation. He also explained that this limitation does not apply to already serving regents.

- **HB1099** – Dr. Rush said HB1099 would codify the current dual credit language. Dr. Rush provided further information on this bill and explained that we support it. He noted that it passed House Education on Wednesday.

The Board had no questions or concerns.

- **HB1064** – Dr. Rush noted that this is our bill on the Deaf School disposition language that would allow us to sell part of the property. He explained that this bill passed Joint Appropriations on Thursday with no opposition. The bill will be heard on the House floor Tuesday afternoon, January 30.
- **SB134** – Dr. Rush explained that this bill would transfer \$5 million from the Future Fund for Needs Based Financial aid.

He explained that this is consistent with the Board's desire to increase needs-based financial aid, but a \$5 million endowment does not get us very far. There will likely be concern from the Governor's office about using Future Fund Dollars. He said we could use this opportunity to talk about the importance of providing needs-based scholarships and not advocate for the funding mechanism. He noted that this bill has been assigned to Appropriations.

In response to a question by Regent Roberts, Dr. Rush explained that the prime on the bill is Senator Billie Sutton. The regents had no questions.

- **HB1186** – Dr. Rush said HB1186 provides for a legislative review of the Board of Regents every five years starting in 2018.

He said this bill asks for specific information to be provided, all of which is already in the fact book, dashboards and/or reports provided to the Board and put on our website. He said South Dakota provides one of the most comprehensive set of data as any he has seen across the nation.

In response to Regent Morgan, Dr. Rush said Representative Sue Peterson is the prime sponsor. The regents had no questions.

- **HB1199** – Dr. Rush described HB1199 which prohibits collective bargaining by employees of the BOR.

He said that in response to the bill he wants to explain that the Board has had a good relationship with the faculty through the collective bargaining process. If the legislature decides to end collective bargaining, the Board will continue to find ways to work collaboratively with the faculty. The Board remains concerned about the universities' ability to retain and recruit faculty given the difficulty South Dakota has had over the past few years in providing competitive salaries.

Regent Sutton said the Argus Leader contacted him today and he gave a very similar statement to what Dr. Rush described.

SDSM&T President Jim Rankin said he would like to make it clear that the recruitment piece is connected to salaries not collective bargaining.

The regents had no additional comments or questions.

- **HB1202** – Dr. Rush explained that this bill makes a \$3 million appropriation to a USD Law School Operations fund. He said he expects the Board will be supportive.

The regents had no concerns, comments or questions.

- **HB1233** – Dr. Rush explained that HB1233 requires M&R funding for new, non-revenue buildings or facilities at institutions of higher education.

Dr. Rush explained that he intends to oppose the bill. He said it would require 5 cents of every dollar obtained from federal or other sources to be held in a fund for M&R. It would also reduce the general fund by that much money during the next fiscal year. He explained that the state of South Dakota is getting an incredible deal as nearly all the post-secondary buildings have been paid for by students or donors. He said the state should have some level of skin in the game as it is a major beneficiary.

The regents had no comments or questions.

In addition to the bills already described, Dr. Janelle Toman, Director of Communications, explained that the Madison Cyber Labs bill (**HB 1057**) is completely through the process and is on the Governor's desk for finalization.

She also noted that **HB1232** was introduced yesterday and it seeks to eliminate the state subsidy for the dual credit program.

Dr. Rush said the **HB1058**, which addresses the SDSD superintendent qualifications, has had some consternation from the legislators and the deaf community. He explained that the intention of the bill is to make the qualifications of the SDSD superintendent equivalent to that of the SDSBVI superintendent. He said the bill was approved on the House floor with a friendly amendment earlier this week.

Dr. Toman said that **HB1063** which deals with freedom of speech will be heard in the House Judiciary committee on Friday, February 2. Dr. Rush said we are very confident that the regental system universities do not shut down expression of speech on our campuses, and even the sponsor of the bill acknowledged that South Dakota does not have a problem in this regard. Additionally, Dr. Rush acknowledged that the bill actually opens the state up to additional litigation vulnerabilities from public interest groups.

Regent Sutton asked about the position of the Governor's office on **SB103**. Dr. Rush said he will follow up with the Governor's office to learn about their position.

Regent Sutton asked that the campuses share any input and communication they have with local legislators. He said the relationships they have with local legislators is invaluable in this process.

NSU President Downs asked whether he could distribute the statement on the collective bargaining position to the campus faculty. Dr. Rush said he will email out the statement to the presidents and they are welcome to share.

Regent Morgan asked if other legislators have spoken against the collective bargaining bill. Dr. Rush said this legislation was just dropped so many legislators are reviewing the legislation currently.

## **ADJOURN**

IT WAS MOVED by Regent Schaefer, seconded by Regent Thares, to adjourn the meeting of the full Board at 4:45 p.m.

## **ROLL CALL:**

Adam – AYE  
Bastian – ABSENT  
Morgan – AYE  
Roberts – ABSENT  
Schaefer – AYE  
Thares – AYE  
Wink – ABSENT  
Schieffer – ABSENT  
Sutton – AYE

Motion Passed. Meeting adjourned.

The South Dakota Board of Regents adjourned its special meeting on January 26, 2018 and will meet again in regular session on March 27-29, 2018 in Spearfish, South Dakota.

I, Mike Rush, Executive Director and CEO of the South Dakota Board of Regents, declare that the above is a true, complete and correct copy of the minutes of the Board of Regents meeting held on January 26, 2018.

A handwritten signature in black ink that reads "Mike Rush". The signature is written in a cursive, flowing style.

Mike Rush  
Executive Director and CEO