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Representative Lynn Gattis
State Capitol Room 500
Juneau AK, 99801

Via email: Rep.Lynn.Gattis@akleg.gov

RE: HB 107 – Composition of the Board of Regents

Dear Representative Gattis:

Thank you for your email requesting input from the Board of Regents on HB 107. As we understand it, HB 107 would establish a requirement that the governor appoint six regents from specified geographic areas of the state as vacancies occur. Regents appointed to meet these regional residency requirements would be required to maintain residency in that region or lose their seats. One seat would remain a student seat and four other seats would remain at-large appointees. At present all but one (the student seat) of 11 board seats are appointed at large by the governor, subject to Legislative confirmation.

While we understand and appreciate the reasons for the proposed legislation, the board has two significant concerns about this approach: the bill would create geographic constituencies and promote regionalism on the board; and the regional residency requirements may be subject to constitutional challenges that could call board action into question. I'll briefly address these concerns in turn.

The different constituencies served by each of the three separately accredited universities (UAA, UAF, UAS) and their community campuses makes collaboration a challenge in the best of times. Yet collaboration on the board and among these components of the UA System is critical to making the best use of limited resources and serving the public effectively. In adopting the Shaping Alaska's Future initiative <http://www.alaska.edu/shapingalaskasfuture/> as Regents' Policy last June, the Board of Regents formally committed itself and tasked the entire UA system to collaborate to create a cost-effective, integrated state-wide system of higher education that works for students and the public. (For example, see Theme 5, Accountability to the People of Alaska, Issue E <http://www.alaska.edu/shapingalaskasfuture/accountability/>) Because regents have focused on serving the broad interests of the entire state, the board has been united in support of that overarching interest. As a result, the three universities are making important strides in areas including common academic calendars and general education requirements. We fear that in mandating representation of specific regions, HB 107 will create regionalism on the board that may pose additional barriers to collaboration.

Regional residency requirements also may create constitutional disputes that may leave the board in limbo and unable to take effective action. Article 7, § 3 of Alaska's Constitution requires that the governor's appointments to the Board of Regents be confirmed by the Legislature. However, the constitution does not limit whom the governor may appoint or make the governor's

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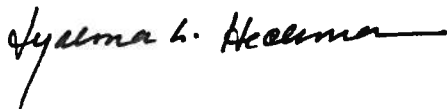
appointment authority subject to law. HB 107 would significantly restrict initial appointments and impose ongoing regional residency requirements on regents. By contrast, prior statutory provisions regarding regent appointments generally provide broad and uncontroversial implementation details.

Regional residency requirements may result in disputes and delays in appointments. Delays alone could limit the board's ability to act since by law six votes are required for board action. If based on regional residency requirements, rejection of a governor's appointees or early termination of a regent's term may also result in litigation. Either way, the existence of constitutional questions about regional residency requirements will have real world implications for the University. Any uncertainty about the qualifications of appointees or composition of the board could directly interfere with the University's ability to take action requiring board approval. These include among other things selling bonds, hiring a president, conferring degrees, adjusting tuition, adopting budgets and selling or purchasing property.

The board also must authorize any declaration of financial exigency and reduction or discontinuation of academic programs. These are actions that permit the university to reduce faculty and staff without the constraints or notice periods typically required. Third parties dissatisfied with board decisions in such areas will have significant incentive to seize on any uncertainty regarding board authority to delay or disrupt necessary actions. This is particularly problematic when budgetary pressures require aggressive and prompt action.

We very much appreciate your willingness to consider board concerns in this regard. We also look forward to working with the Legislature to ensure that the needs of all areas of the state are considered as the University meets the difficult challenges ahead.

Sincerely,

A handwritten signature in black ink, appearing to read "Jyotsna Heckman", with a long horizontal flourish extending to the right.

Jyotsna Heckman, Chair
Board of Regents

Mary K. Hughes
1592 Coffey Lane
Anchorage, AK 99501
mkhughes@alaska.edu

March 14, 2015

Representative Lynn Gattis
State Capitol Room 500
Juneau, AK 99801

via email: Rep.Lynn.Gattis@akleg.gov

Re: HB 107 – Composition of the Board of Regents

Dear Representative Gattis:

A hearing has been scheduled on the above-captioned bill for Wednesday, March 18. I, unfortunately, am away from home and therefore cannot testify in person. I would like my letter to suffice and be entered into the record.

Your office received on February 24, pursuant to your request, the comments of the University of Alaska Board of Regents on HB 107. Since we speak as an entire board through our chair, it is unusual for a single regent to provide testimony. At the request of our Chair Jo Heckman, I do so in support of the Board's aforementioned letter.

I have been a member of the UA Board of Regents since 2002. I was appointed by then-Governor Tony Knowles when the Legislature failed to confirm the appointment of Mark Begich. The timing of the appointment necessitated then-Governor Frank Murkowski to submit my name to the Legislature for confirmation. He did so. I was re-appointed by then-Governor Sarah Palin in 2009. During my tenure, there has been one appointed regent not confirmed by the Legislature and one sitting regent resign as a result of a criminal indictment against him. Each circumstance involved gubernatorial and legislative discussions with the Board, eventually culminating in an agreed upon resolution.

I relate the twelve history of "regent appointment" while I've been on the Board to demonstrate the ability of the Governor, Legislature and the Board to move forward without legislation. The University and the Board is part of Alaska's Constitution; the framers were very specific in their verbiage in Article 7:

§ 2. State University

The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

§ 3. Board of Regents

The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

Over the years, the only specific “regent appointment” legislation I can recall is the creation of a student regent.

I was fortunate to have been born on Kodiak Island, raised in Anchorage, educated at the University of Alaska in Fairbanks and, with the exception of attending law school, not absent from the state for very long. Given my Alaskan roots, I’ve always considered myself an Alaskan (as do many of us). That being said, while I applaud the Legislative’s careful consideration of the appointment of regents, I do not consider where I reside within the state a criteria for service on the Board of Regents. As a matter of fact, Regent Fuller Cowell, who just completed his exemplary service on the Board in February, was raised in Fairbanks; when he returned to Alaska, lived in Anchorage and Big Lake; and now resides in Fairbanks. I know several former Regents, and many Alaskans, who reside in two or more regions of the state and are extremely proud to do so. In my case, under the HB 107, to return to reside on Kodiak Island, the place of my birth, would deprive me of service on the Board. The consequences would be unfair to me and perhaps unfair to, and certainly a legal quagmire for, the University of Alaska.

Since as Alaskans we are few, we need to embrace unity and collaboration in all we do. The UA Board of Regents has done just that for the twelve years which I’ve served on the Board. During that dozen years, the Board has consisted of many Alaskans, all striving to serve the State of Alaska and provide the very best of post-secondary education to all Alaskans. A restriction of appointments based upon residency within specific regions of the State implies that we are not serving Alaskans well and that a region-based appointment system would better educate Alaskans. I respectfully disagree.

Thank you for your thoughtful consideration.

Yours very truly,

Mary K. Hughes

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