

ARIZONA STATE HOUSE OF REPRESENTATIVES
RESEARCH STAFF



TO: JOINT LEGISLATIVE AUDIT COMMITTEE

DATE: January 27, 2022

SUBJECT: Sunset Review of the Arizona Board of Regents

Chase Houser
Committee on Education
Telephone: (602) 926-3213

Attached is the final report of the sunset review of the Arizona Board of Regents which was conducted by the House and Senate Education Committee of Reference.

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona
The Honorable Douglas A. Ducey

President of the Senate
Senator Karen Fann

Speaker of the House of Representatives
Representative Russell Bowers

Senate Members
Senator Paul Boyer, Co-Chair
Senator Nancy Barto
Senator Sally Ann Gonzales
Senator Rick Gray
Senator Theresa Hatathlie
Senator Christine Marsh
Senator Tyler Pace
Senator Thomas Shope

House Members
Representative Michelle Udall, Co-Chair
Representative Lupe Diaz
Representative John Fillmore
Representative Daniel Hernandez
Representative Joel John
Representative Quang Nguyen
Representative Jennifer Pawlik
Representative Beverly Pingerelli
Representative Judy Schwiebert
Representative Myron Tsosie

Arizona Board of Regents
Arizona State Library, Archives & Public Records
House Republican Staff
House Democratic Staff
House Research Staff

Senate Resource Center
Senate Republican Staff
Senate Democratic Staff
Senate Research Staff
Office of the Auditor General

House of Representatives and Senate
Education Committee of Reference
Sunset Review of the
Arizona Board of Regents



Final Report

January 2022

House Members

Representative Michelle Udall, Co- Chair
Representative Lupe Diaz
Representative John Fillmore
Representative Daniel Hernandez
Representative Joel John
Representative Quang Nguyen
Representative Jennifer Pawlik
Representative Beverly Pingerelli
Representative Judy Schwiebert
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Senator Sally Ann Gonzales
Senator Rick Gray
Senator Theresa Hatathlie
Senator Christine Marsh
Senator Tyler Pace
Senator Thomas Shope

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Report 2022

Background

Pursuant to [A.R.S. § 41-2953](#), the Joint Legislative Audit Committee assigned the sunset review of the Arizona Board of Regents (ABOR) to the House and Senate Education Committee of Reference for review.

ABOR is the constitutionally created governing body of Arizona's three public universities (Arizona State University, Northern Arizona University and the University of Arizona) ([Ariz. const. art. 11, sec. 5](#)). ABOR is composed of twelve members: the Governor and the Superintendent of Public Instruction (who serve as ex-officio members) and ten members appointed by Governor, two of whom are student regents. These ten members must be confirmed by the Senate and student regents must attend one of the three in-state public universities (A.R.S. §§ [15-1621](#), [15-1622](#)).

Statute tasks ABOR with exercising the powers necessary for the effective governance and administration of the institutions under its control, including authorizing each university to adopt regulations, policies, rules or measures deemed necessary for the universities' administration and governance. Additionally, ABOR's powers include, but are not limited to: 1) appointing university presidents and staff; 2) fixing tuition and fees; 3) establishing curricula and designating courses; 4) awarding degrees and diplomas; 5) prescribing admission qualifications for students; and 6) annually adopting an operating budget for each university ([A.R.S. § 15-1626](#)).

ABOR is set to terminate on July 1, 2022. However, since the state Constitution establishes ABOR, a majority of the vote of the people is required to amend the state Constitution and terminate ABOR ([A.R.S. § 41-3022.12](#)).

Summary of Committee Activity

The House and Senate Education Committee of Reference met on January 11, 2022 to review the performance audit and sunset review conducted by the Auditor General, evaluate ABOR's response to the sunset factors and receive public testimony.

Committee Recommendation

The House and Senate Education Committee of Reference recommended that ABOR be continued for five years until July 1, 2027.

Appendix A:

January 11, 2022 House and Senate Education Committee of Reference
Minutes and Reference Materials

Interim agendas can be obtained via the Internet at <http://www.azleg.gov/Interim-Committees>

ARIZONA STATE LEGISLATURE
INTERIM JOINT MEETING NOTICE
OPEN TO THE PUBLIC

HOUSE EDUCATION COMMITTEE OF REFERENCE
AND
SENATE EDUCATION COMMITTEE OF REFERENCE

Date: Tuesday, January 11, 2022

Time: 2:00 P.M.

Place: HHR 1

Members of the public may access a livestream of the meeting here:
<https://www.azleg.gov/videooplayer/?clientID=6361162879&eventID=2022011016>

AGENDA

1. Call to Order
2. Introduction
3. Sunset Review of the Arizona Board of Regents
 - Presentation by the Office of the Auditor General
 - Presentation by the Arizona Board of Regents
 - Public Testimony
 - Discussion and Recommendation
4. Sunset Review of the School Facilities Board
 - Presentation by the Office of the Auditor General
 - Presentation by the School Facilities Board
 - Public Testimony
 - Discussion and Recommendation
5. Review of the Arizona Department of Education – Empowerment Scholarship Accounts Program Special Audit
 - Presentation by the Office of the Auditor General
 - Presentation by the Arizona Department of Education
 - Public Testimony
 - Discussion
6. Adjourn

Members:

Senator Paul Boyer, Co-Chair
 Senator Nancy Barto
 Senator Sally Ann Gonzales
 Senator Rick Gray
 → Senator Theresa Hatathlie
 Senator Christine Marsh
 Senator Tyler Pace
 Senator T.J. Shope

Representative Michelle Udall, Co-Chair
 Representative Lupe Diaz
 Representative John Fillmore
 Representative Daniel Hernandez, Jr.
 Representative Joel John
 Representative Quang Nguyen
 Representative Jennifer Pawlik
 Representative Beverly Pingerelli
 Representative Judy Schwiebert
 Representative Myron Tsosie

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ARIZONA STATE LEGISLATURE

HOUSE EDUCATION COMMITTEE OF REFERENCE AND SENATE EDUCATION COMMITTEE OF REFERENCE

Minutes of the Meeting
January 11, 2022
2:00 P.M., HHR 1

Members of the public may access a livestream of the meeting here:

<https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2022011016>

Members Present:

Senator Paul Boyer, Co-Chair
Senator Nancy Barto
Senator Sally Ann Gonzales
Senator Rick Gray
Senator Theresa Hatathlie
Senator Tyler Pace
Senator T.J. Shope

Representative Michelle Udall, Co-Chair
Representative Lupe Diaz
Representative John Fillmore
Representative Daniel Hernandez, Jr.
Representative Joel John
Representative Quang Nguyen
Representative Jennifer Pawlik
Representative Beverly Pingerelli
Representative Judy Schwiebert
Representative Myron Tsosie

Members Excused:

Senator Christine Marsh

Staff:

Laura Benitez, Senate Research Analyst
Maggie Sullivan, Senate Research Intern
Chase Houser, House Research Analyst
Meghan Rasmussen, House Research Intern

Co-Chair Udall called the meeting to order at 2:30 p.m. and attendance was noted.

INTRODUCTION

Co-Chair Udall welcomed everyone to the committee.

SUNSET REVIEW OF THE ARIZONA BOARD OF REGENTS

Presentation by the Office of the Auditor General

Jeff Gove, Deputy Director, Performance Audit Division, Office of the Auditor General distributed and explained a PowerPoint Presentation entitled "Arizona Board of Regents" (Attachment A).

Senator Gray commented on the role that the Arizona Board of Regents (ABOR) provides and the information presented above.

Mr. Gove answered questions posed by the Committee.

Presentation by the Arizona Board of Regents

John Arnold, Executive Director, Arizona Board of Regents, introduced Regent Lyndel Manson in the audience and distributed and explained a PowerPoint presentation entitled "Arizona Board of Regents" (Attachment B). Mr. Arnold answered questions posed by the Committee.

The Committee discussed property holdings, management of property, the model of the University's accountability and the findings of the Auditor General's report.

Lyndel Manson, Chair, Arizona Board of Regents, answered questions posed by Representative Fillmore.

Mr. Arnold returned to the podium to answer questions posed by the Committee.

Public Testimony

No public testimony took place.

Discussion and Recommendation

Co-Chair Udall requested a motion on the recommendation.

Senator Boyer moved that the House Education Committee of Reference and the Senate Education Committee of Reference recommends that the Arizona Board of Regents be continued for five years. The motion CARRIED with a roll call vote of 13-4-1 (Attachment 1).

Senators Barto and Hatathlie and Representatives Fillmore, Hernandez and Udall explained their vote.

SUNSET REVIEW OF THE SCHOOL FACILITIES BOARD

Representative Udall explained that the School Facilities Board is no longer the School Facilities Board. It is now the School Facilities Oversight Board. The Division of School Facilities is now within Arizona Department of Administration (ADOA). There was a changeover in the middle of this audit because there were some issues and such so the recommendation will be to continue the School Facilities Oversight Board.

Presentation by the Office of the Auditor General

Jeff Gove, Deputy Director, Performance Audit Division, Office of the Auditor General distributed and explained a PowerPoint Presentation entitled "Arizona School Facilities Board" (Attachment C). Mr. Gove explained the legislative changes transferring the Board's responsibilities to the ADOA and answered questions posed by the Committee.

Presentation by the School Facilities Board

Ashley Ruiz, Assistant Director, Division of Business and Finance, Department of Administration, gave a response to the Auditor General's report and explained the new policy, procedures and overview for the School Facilities Oversight Board. Ms. Ruiz answered questions posed by the Committee.

Public Testimony

No public testimony took place.

Discussion and Recommendation

The Committee discussed school building inspections.

Co-Chair Udall requested a motion on the recommendation.

Senator Boyer moved that the House Education Committee of Reference and the Senate Education Committee of Reference recommends that the School Facilities Oversight Board be continued for three years. The motion CARRIED with a roll call vote of 16-1-1 (Attachment 2).

REVIEW OF THE ARIZONA DEPARTMENT OF EDUCATION – EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM SPECIAL AUDIT

Presentation by the Office of the Auditor General

Miguel Caro Mateus, Senior Performance Auditor, Office of the Auditor General, distributed and explained a PowerPoint presentation entitled "Arizona Department of Education Empowerment Scholarship Accounts Program" (Attachment D). Mr. Mateus answered questions posed by the Committee.

Presentation by the Arizona Department of Education

Aaron Wonders, Deputy Director, Legislative Affairs, Arizona Department of Education, distributed and explained a PowerPoint presentation entitled "Empowerment Scholarship Account (ESA), 2019 Special Audit, January 11, 2022" (Attachment E).

Mr. Wonders responded to Representative Udall's questions regarding public records requests.

Public Testimony

No public testimony took place.

Discussion

No discussion took place.

There being no further business, the meeting was adjourned at 4:44 p.m.

Respectfully submitted,

Tracey Gardner
Committee Secretary

(Audio recordings and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room 115. Audio archives are available at <http://www.azleg.gov>)



Arizona Board of Regents

Presenter: Jeff Gove

Date: January 11, 2022



Auditor General reports



- Commercial Real Estate
- University Affiliated Organizations
- Sunset Factors

ABOR established by Arizona Constitution

- Governing body for Arizona State University, Northern Arizona University, University of Arizona
- Authorized to exercise powers necessary for effective governance and administration of universities
- May delegate its authority to its committees, university presidents, or other entities under its control



Commercial Real Estate

Does ABOR provide sufficient oversight of commercial real estate on its property?

ABOR authorized to own/lease property

- Statute authorizes ABOR to own and lease property for benefit of State and universities' use
- ABOR exempt from paying taxes on its property

ABOR has approved commercial leases

Commercial indicates majority of business conducted at property will be from nonuniversity population



Problem identified



- ABOR did not maintain a listing of its property and its uses
- Relied on universities to maintain this information

Problem identified



- We identified more than 1,100 parcels in Arizona potentially owned by ABOR totaling over 11,000 acres
- Universities' listings included properties that appeared to be owned by other parties and did not include properties ABOR owned

Why this matters



- Lack of complete and accurate property listing limits ABOR's ability to independently and effectively manage and oversee use of its property
- Example: Inaccurate information about property use in some in university property listings

Problem identified



- ABOR's commercial real estate policies lacked definitions and guidance for implementing various policy requirements
- Examples: Did not explain how universities should assess economic and tax impacts of commercial leases or how to calculate rent reflecting market rates

Why this matters



Increased risk ABOR may approve leases that primarily benefit private parties rather than the State

Issues with third-party management

- ABOR has 3 contracts with nonprofit Campus Research Corporation (CRC) for operation of ABOR properties
- ABOR delegated responsibility for overseeing contracts to University of Arizona president

Problem identified



University of Arizona presidents did not fulfill oversight responsibilities, including:

- Not approving CRC's expenses
- Allowing monies to be transferred between properties in violation of contracts

Why this matters



Lack of transparency and accountability for commercial use of ABOR property, which is a public resource

Recommendations



ABOR should develop and implement policies and guidance for the universities, and other processes

Follow-up conclusions



- 4 recommendations addressed
- 5 recommendations in process
- 8 recommendations not yet implemented



University-Affiliated Organizations

Are ABOR's university-affiliated organization guidelines consistent with recommended practices and did the universities comply with its guidelines?

Affiliated organizations background



- Legally separate nonprofit corporations that carry out activities primarily in support of universities
- State's universities have established relationships with 19 affiliated organizations

Resource exchanges with affiliated organizations in fiscal year 2019



- \$250 million paid by affiliated organizations to benefit universities, including donations and scholarships
- \$100 million paid by universities to affiliated organizations for various purposes, including real estate debt service

Recommended practices for affiliated organizations

ABOR's guidelines reflected many practices

Problem identified



Universities did not always comply with ABOR's guidelines, including:

- Had expired or outdated agreements or lacked formal agreements
- Lacked complete documentation/disclosure of value or purpose of university resources provided to some affiliated organizations

Causes of noncompliance



- Has not overseen universities' compliance
- Has not required universities to regularly report information to it about affiliated organization activities and resource exchanges

Why this matters



- Limited universities' and ABOR's ability to demonstrate public purpose of resources provided to affiliated organizations and hold them accountable for providing expected benefits
- Limited ABOR's ability to identify, monitor, and mitigate risks associated with affiliated organization activities

Recommendations



ABOR should:

- Require universities to have written agreements that specify public resources to be provided and benefits to be received
- Regularly obtain information from universities about affiliated organizations' activities and associated risks and liabilities

Follow-up conclusions



- 3 recommendations addressed
- 3 recommendations in process

ABOR has established processes related to statutory responsibilities



- Setting tuition and fees
- Appointing and determining compensation for university presidents
- Establishing a strategic plan for the university system
- Publishing reports on activities and outcomes

Recommended improvements to ABOR processes



- Oversight of university risk management
- Policy review process
- Conflict-of-interest process



Arizona Board of Regents

Presenter: Jeff Gove

Date: January 11, 2022





Arizona Board of Regents

Regent Lyndel Manson – Board Chair

John Arnold – Executive Director

January 11, 2022

The Regents

- 10 volunteers
- Single board that serves as the governing board for the three individual universities but also has a statewide responsibility.
 - Small footprint – 35 employees
 - Collaboration and Competition
 - Statewide perspective and mission
 - Transparent/Performance focused

Regent Priorities

- Advancing Arizona Values and Needs
- Building Arizona's Workforce
- Preparing for the New Economy
- Ensuring Strong Governance



Advance Arizona Values and Needs

- Collaborating with the Arizona's business community to align university programming with long-term workforce needs.
- Protecting and celebrating free speech and civil discourse through Free Expression Committee and Regent's Cup.
- Advancing civics and principles of American constitutional democracy through reform of general education curriculum.
- Ensuring efficiency and controlling costs through implementation of cost studies, confirming Arizona's public institutions are some of the most efficient in the country.
- Increasing choice, opportunity and access for students through expanded online and local offerings; free dual enrollment certification pathways for teachers.
- Securing entrepreneurial funding sources, reducing universities reliance on state funds from 21 percent in FY 2011 to 14 percent.
- Innovating universities' health sciences offerings to align with Arizona workforce needs.



Building Arizona's Workforce

212,700

Fall 2022 Enrollment

23% Latino

24% Pell Recipients

57% Female

47,531

2020 Graduates

4,493 Healthcare

4,065 Engineering

4,302 Education

In the last ten years, Arizona's public universities have awarded 386,000 degrees, received the Hispanic Serving designation on multiple campuses, and increased annual degree production by 52 percent.

Education Beyond High School Lags the National Rate

Statistics indicate that for an entering 9th grade class, only 17% will have a bachelor's degree 10 years later, compared to 39% nationally.

	Arizona	United States
High School Diploma or Lower	78%	50%
Associate's Degree	3%	11%
Bachelor's Degree or Higher	17%	39%

Estimated by 2030: 27 percent of all Arizona jobs will require a minimum of a four-year degree

Current Efforts To Improve Post High School Education Outcomes

With your help:

- Arizona Teachers Academy – 2,032 graduates; current enrollment of 2,574
- Arizona Promise Program
- ASU Prep Digital partnerships
- Self-Financed \$1.1 billion in additional financial aid

Underway:

- Financial aid reform
- Admissions process review
- FAFSA Initiatives
- Dual Enrollment expansion



Preparing for the New Economy

Arizona State University

- Grew the Fulton Schools of Engineering into the largest engineering school in the United States – current enrollment of 26,999
- Launched the new School of Manufacturing Systems and Networks

Northern Arizona University

- Expanded allied health and nursing programs including mental health programs
- Continues to push additional programs to local sites through partnerships with the community colleges – current proposal will double the number of students in Yuma

University of Arizona

- Developing the Mach 5 supersonic wind tunnel
- Launching the School of Mining

Building on these initiatives by expanding science and technology centers, launching the One Health initiative and continuing to place higher education into the reach of all eligible students.

Even Better Governance

Seven Audits Since 2017

- Foster Care Tuition Waiver Pilot Programs
- Fee-Setting Processes
- Student Success
- Information Technology Security
- Commercial Real Estate
- University-Affiliated Organizations
- Sunset Review

71 Recommendations

- 47 Implemented or Partially implemented
- 16 In process
- 8 Not implemented (all from Commercial Real Estate)

Commercial Real Estate Audit – Outstanding Issues

Recommendation		Current Status
1C	Tracking Current Leases	Received the report
2	Use of Waivers	Implemented but broadening
3	Determining Fair Market Value	Implemented in a different way
4	Track Reporting Requirements	Received the report
6	Amending Master Lease Agreements	Implementing as opportunities arise
7	Track Oversight Duties	Received the report
10	Track Lease Requirements	Received the report
15	Procedure to Verify Accuracy of Real Estate Holdings	In process

Commercial Real Estate Governance

- Must optimize the value of the property for the university and enhance its institutional mission.
- University must document the economic benefits to the university and the state including the tax treatment of the property and proposed improvements and payments in lieu of taxes.
- Any approval will consider appropriate community outreach.
- Will NOT approve any commercial lease if the primary purpose is to remove private property from the tax rolls.

Rankings

ARIZONA STATE UNIVERSITY

#1 in Innovation

**Top 1% in most
Prestigious Universities**

Named Best Value College

NORTHERN ARIZONA UNIVERSITY

**#2 in Awarding Master's
Degrees to Native Americans**

**Top 100 for Research
(without medical school)**

**#7 School of Hotel and
Restaurant Management**

UNIVERSITY OF ARIZONA

Named Best Value College

**Ranked in the Top 25 for
Research Funding**

Top 50 Public University