Minutes of Regular Meeting

Meeting
Regular meeting of the full senate, 3:15 p.m., Kendall Cram Room, Lavin-Bernick Center
Presiding: The chair, President Cowen.

Attendance
Ex Officio: Cowen (pres/chair), M. Bernstein (provost), Lorino (CFO), Jones (COO), Cullen, (pres. ASB), Britton (proxy for Hayes, chair, SAC), Mackin (sec)
Deans: MacLaren (NTC), Bernhard (Arch.), Marksbury (SCS), Ponoroff (Law), G. Bernstein (SLA), Buckens (SPHTM), Altiero (SSE), Marks (SSW)
A. B. Freeman School of Business: M. Sujan, Cardinal
Newcomb-Tulane College:
Architecture: Reese (proxy for Klingman)
Continuing Studies: Schwartz (also proxy for Green)
Law: Diamond, Davies
Liberal Arts: Dangler, Masquelier, Carroll, Pollock, Balée
Medicine: Doucet, Phinney
Public Health and Tropical Medicine:
Hutchinson, Webber, Long (also proxy for Langston), Rose
Science and Engineering: Schmehl, Walker, Tasker
Social Work: Pearlmutter
Student Senators: Koski (proxy for Walker), Pillert, Beyerstedt
Staff Senators: Earles, Barrera

Senators at Large: Hill, Koritz, Purrington, Landry, Gaver
Invited Guests: Wilson(chair, Athletics), Barron (CIO), Maczuga (assn VP, tech transfer), Cherrey (VP, student affairs), Hogg (assn prov), Mitchell (assn prov), Lopez (assn prov), Lawless (dir, public safety), Baños (chief of staff), Banker (spec asst to pres), Davey (coord, environmental affairs)
Absent Senators: Sachs, DeNisi, Query, Page, Goodwin, Nowicki, Mushatt, Taylor, Diaz-Thomas, Bunnell, McSwain, Diebold, Lewis, Kelley, Kuczynski, Brancaforte, Myers

Introduction of New Senators and Guests
During the meeting, the president introduced Chief Daniel Lawless, director of public safety.

Minutes
The draft minutes of the senate meeting on April 7 were discussed. Senator Schwartz proposed deleting some comments made during the discussion about guns on campus because the minutes would be public and a person of malicious intent might make use of the information. The deletion was approved without objection. Senator Koritz questioned the accuracy of the remarks attributed to Registrar Retif in the minutes. President Cowen noted that Registrar Retif was not present and suggested that the secretary contact the registrar and correct the minutes as needed. The minutes were then approved with that condition. [Secretary’s note:
the corrected minutes that include a clarification of Registrar Retif’s remarks were sent out to the university community and posted on the senate Web site.]

**Elections**

Parliamentarian: Parliamentarian Wiese was re-elected unanimously to a full two-year term.

Committee on Committees: Two members of the committee were replaced because of inability or ineligibility to serve:
- Lance Green replaced Kay McLennan (SCS).
- Cedric Walker replaced Lev Kaplan (SSE).
Both changes were approved unanimously by the faculty senators.

**President’s Report**

The president had one item to report. As of the date of the meeting, the university had received 1,323 deposits from incoming freshmen. That was the highest number since 2005, when the university had received 40 more deposits by the same date. The administration estimated the size of the incoming class to be in a range between a low of 1,560 and a high of 1,720. President Cowen said that number would then be reduced slightly by “summer melt.”

Referring to the president’s presentation to the board, which had been distributed after the last senate meeting, Senator Carroll asked what the administration’s goal was for students in the top 10 percent of their high school class. The presentation showed 51 percent in the top 10 percent since Katrina and 59 percent before.

The president responded that the immediate goal for the next year or two was 60 percent and the ultimate goal was 75 percent. If the projections held, the incoming class would include about 67 percent in the top 10 percent of their graduating class.

**Unfinished Business**

Senator Davies, chair of the Senate Committee on University Honors, presented two committee motions, which had been introduced at the previous senate meeting. However, because of some confusion between Senator Davies and Secretary Mackin about the requirement for confidentiality, much of the discussion was held in executive session. The first motion was that the senate should adopt revised criteria for honorary degrees, which included a revised procedure for consideration and approval of nominees. The second motion called for revising By-Law VI of the senate constitution to allow for the revised procedure.

The new procedure would have the senate committee and the board committee sit together when considering nominations for university honors. The board committee would be expanded to include two student members. Although the two committees would meet together, they would remain constitutionally independent in that their votes would be reported to the senate separately. Any candidate who received a majority of the combined vote would be proposed to the senate. Candidates approved by the senate would be forwarded to the president, who would review the candidate’s qualifications in consultation with the provost. The president’s recommendation would accompany the senate’s recommendation to the board. Senator Davies said the purpose of the changed procedure was twofold: first, to streamline the process and, second, to include the whole university community in the initial consideration of candidates for honorary degrees.

Senator Davies said the changes to the criteria were for the sake of clarity and ease of application. Criteria at seven peer institutions were researched in developing the new criteria.

Senator Purrington asked what would happen under the new procedures if the senate did not approve a candidate. Senator Davies said the result would be the same as the current procedure; the candidacy would end there.

When asked about the steps necessary to approve the proposal, Senator Davies said the proposed new criteria would be voted on first and the bylaw change would be voted on afterwards. On behalf of the committee, he moved adoption of the new criteria.

Senator Diamond moved to amend the criteria in the section on civic engagement to
include the words “the nation” in addition to the other regions specified. Senator Pollock suggested it would be simpler and clearer to delete the phrase listing regions and replace it with the phrase “no matter where it occurs.” Her suggestion was accepted without objection. The revised amendment was seconded and then approved by majority voice vote. The new criteria, as amended, were then adopted, also by majority voice vote.

Senator Davies then moved adoption of the bylaw change that had been presented at the previous senate meeting. Secretary Mackin advised that, although the senate had enough voting members present for a quorum, it did not have enough members present to make a bylaw change practical. The constitution required a vote of two-thirds of the voting membership to pass a bylaw change. Without objection, the second reading of the amendment to the bylaws was postponed to the first senate meeting of the fall semester.

**Committee Reports**

**Committee on Budget Review**

Senator Schmehl, committee chair, reviewed the report, which had been distributed to the senate prior to the meeting. Based on results from the third quarter, the committee projected revenues for fiscal year 2008 of $610 million and expenditures of $555 million, leading to an increase in net assets of $55 million. However, Senator Schmehl pointed out that the apparent increase in assets was misleading because of the effect of one-time revenues and expenses. The revenues included $54 million in insurance and other recoveries, $20 million in capitalization of grant-funded construction expenditures, and the donation to Tulane of the Murphy Oil Building, with a value of $13.9 million. Without the one-time elements, the university actually had an operating deficit of $28 million.

A comparison of FY 2008 projections to FY 2005 showed that net tuition revenues remain lower because the total number of students is lower and will remain so for several years. Expenses directly related to instruction are also lower, but operations and maintenance costs have increased by $18 million. The major contributors to the increased costs are utilities, which have increased 30 percent ($5 million more); insurance, which has increased by $3.6 million; and public safety, which has increased by $1.6 million. One-time costs of internal moves associated with the strategic plan added $3 million to operations and maintenance costs.

On a brighter note, Senator Schmehl said that the Promise and Distinction Campaign had exceeded its fund-raising goal of $700 million. As of late April, the campaign had raised $715 million. Senator Schmehl acknowledged the efforts of Vice President Jones and the Office of Institutional Advancement in surpassing the goal.

Hurricane losses, Senator Schmehl said, were now estimated to be $650 million. The university had recovered $294.7 million from insurance sources, $39.2 million from FEMA, and $39.7 million from other sources. Some additional recovery of funds may be possible.

The committee also considered the results of the provost's survey of faculty salaries. Salaries were compared with the database of the College and University Professional Association. The CUPA data included all ranks, departments, and programs for private doctoral institutions. As a result of the comparison, the administration approved additional faculty compensation funds of $2 million, on top of the across-the-board increase of 3 percent. The salary adjustments primarily affected the schools of Liberal Arts, Architecture, Social Work, and Science and Engineering.

Senator Schmehl then discussed the FY 2009 budget. The committee had made a few adjustments since its interim report in December. Size of the incoming class was increased to 1,500, but total undergraduate enrollment remained at 5,000. Total expenses were estimated to increase by 10.2 percent over FY 2008. The proposed budget projected an operating deficit of $29.6 million for FY 2009. On behalf of the committee, Senator Schmehl moved that the senate adopt the proposed FY 2009 budget.
Dean Ponoroff asked for clarification on the budgeted raises for faculty members upon promotion to associate or full professor. He was not clear whether those raises applied to all schools or only the four schools receiving salary adjustments. Provost Bernstein explained that those raises applied to all schools.

Dean Ponoroff then asked whether the CUPA data covered all schools at Tulane. The provost said that he believed so. He said that his office used CUPA data because it was the most comprehensive and up-to-date information available.

Senator Purrington asked about the outlook for eliminating the structural deficits. President Cowen said the administration was still aiming at the 2011 time frame. One large problem was the small class of 880 students after the storm, which was about 600 students less than a normal class. A second problem was the overhanging debt of about $100 million from the storm. The administration hoped to be able to pay that debt down or else to invest recovery money in ways that would neutralize the debt payments. The third problem was the continued existence of one-time costs from the storm, which should end in the near future. As those problems were worked out, the deficit should be reduced significantly or eliminated. Working against the elimination of the deficit, however, were the increased utility costs, which had not been anticipated; the increases in faculty salaries, which had not been envisioned but were considered necessary; and the overall increase in the cost of doing business in New Orleans since the storm. Nevertheless, the president said, the administration was still aiming to get the deficit under control by 2011. He also said that the administration would provide updated estimates every year.

Senator Carroll suggested that the university could lower utility costs and help the environment by seeking ways of eliminating energy waste.

Senator Rose asked whether the School of Public Health and Tropical Medicine was considered in the median salary adjustment. Provost Bernstein answered no. President Cowen added that the adjustment was made for those schools in which salary differences from the standard were found to be most egregious. Other schools would be considered in following years.

Senator Gaver criticized the use of the term “cost-of-living salary increases” in the committee’s report. He said that all increases in faculty salaries are merit increases. Senator Schmehl said the committee used terminology provided by provost’s office. The president said the term referred to the standard merit pool. Senator Schmehl agreed to change the wording to “merit pool.”

The president commended Senator Schmehl on his knowledge of budgeting issues. Senator Schmehl replied that this would be his last report because he would not be continuing as chair of the committee. The president commented that replacing committee chairs just when they had learned the process seemed to be a recurring event in the senate.

President Cowen then called for a vote on the committee’s motion to approve the budget recommendations for FY 2009. The motion was approved unanimously by voice vote.

**Committee on Educational Policy**

Senator Long presented the committee’s report. He said the committee made one revision to the Newcomb-Tulane College faculty constitution and unanimously recommended it to the senate for approval. Senator Carroll asked what the revision was. Dean MacLaren responded that a paragraph was added to Article III, section B3, clarifying faculty responsibilities in areas of admission, enrollment, satisfaction of degree requirements and related matters.

The committee’s motion recommending approval of the Newcomb-Tulane College faculty constitution was then approved unanimously by voice vote.

**Committee on Committees**

Senator Webber presented the committee’s report, which had previously been distributed to the senate. He said the committee had completed its review of the senate committee structure as
required every six years by the senate constitution.

As a result of the review, the committee recommended changes to the bylaws governing the Committee on Equal Opportunity. The committee also recommended deleting the Committee on Review of Faculty Status Decision Impasses from the bylaws. The committee had also considered replacing the Committee on Social Issues with ad hoc committees as needed, but decided against that change. The committee found that the Committee on Social Issues dealt with controversial issues. Its members thought it would be difficult to constitute an ad hoc committee that would not be susceptible to the charge of bias when it was appointed in the midst of a controversy.

The proposed changes to the bylaws for the Committee on Equal Opportunity included a change in title, change in functions, and change in membership. The proposed new title was the Committee on Equal Opportunity and Institutional Equity, indicating a role that went beyond affirmative action to broader issues of equal opportunity and diversity. The change in committee functions would eliminate the executive function, which was “to prepare and implement policies concerning affirmative action in connection with the University’s Affirmative Action Plan.” The Committee on Committees found this wording to be misleading. The Committee on Equal Opportunity neither prepared nor implemented policies but instead worked closely with the Office of Institutional Equity and advised the senate on proposed policies. The proposed change would make the committee’s function clearly advisory, while expanding and clarifying the areas covered.

Because the committee’s area of responsibility was expanded, Senator Webber said the committee also needed to expand its membership. That proposed change to the bylaws would increase the number of appointed faculty members by two, students by one, exempt staff by one, and non-exempt staff by one. The committee would also have the authority each year to coopt two faculty members with expertise in the topics on the committee’s agenda that year.

In regard to the Senate Committee on Review of Faculty Status Decision Impasses, Senator Webber said it was redundant and served no useful purpose. Impasses did not really exist because final authority lay in the hands of the Board of Tulane University. Methods existed in each school and in the senate constitution for faculty members to contest an adverse decision. As far as the Committee on Committees could determine, the Committee on Review of Faculty Status Decision Impasses had never met since it was formally established in the senate constitution in 1989. So the committee recommended its dissolution and removal from the bylaws.

Senator Carroll suggested that the Committee on Equal Opportunity had executive duties that it had not been carrying out. She said the committee should retain some executive functions, even though those actions should be brought to the senate for approval. Senator Webber said the executive responsibility belonged to the administrative office.

On the topic of the Committee on Review of Faculty Status Decision Impasses, Senator Carroll said she was concerned about its elimination because the Committee on Faculty Tenure, Freedom, and Responsibility had said its responsibility to review does not apply to third-year review cases.

Senator Dangler recommended that the phrase in the proposed change to the bylaws for the Committee on Equal Opportunity be changed from “both genders” to “all genders.”

President Cowen noted that the proposed bylaw changes were a first reading and could be amended at the second reading in the fall.

**Committee on Social Issues**

Senator Koritz, chair of the committee, presented the revised policy for a tobacco-free campus, which had been distributed to the senate before the meeting. She said the committee responded to issues raised during the senate discussion of the original proposal submitted by
the Student Affairs Committee. Her committee sought additional comments from school faculties and staff. The committee learned that some staff members were concerned that areas designated for smoking be safe and secure areas. Staff members also suggested that Tulane encourage partner parking garages to move their smoking areas away from stairwells and elevators. Her committee’s revisions involved rearranging bullet points, adding a bullet point under paragraph 3 to clarify the types of gifts that are prohibited and another to provide institutional review of funding or gifts from tobacco-related companies to ensure compliance with university policies. She said the university had procedures in place for such review by the vice president for development and the vice president for external affairs.

In response to questions from Senator Rose and Senator Dangler about specific details of implementation, Doctor Farrow, director of the Student Health Service and chair of the Tobacco-Free Campus Policy Implementation Group, said his coalition was coordinating those details with the schools and offices affected. He said the coalition would generally aim at having as few smoking areas as possible and place them near the perimeter of the campus.

Some senators remained unclear on the enforcement of a prohibition on research funding by tobacco companies. Senator Koritz said the new section on institutional review was a response to concerns raised by Dean Ponoroff at the earlier senate discussion. Funding that might not promote tobacco use would not be excluded without institutional review.

Senator Schmehl was concerned that student organizations might not be aware of the new restrictions and so might accept funding from tobacco companies. Doctor Farrow said one of the activities of the coalition would be to ensure that every constituency in the university knew what the policy was. If a student organization accepted funds inadvertently, it would have to return the funds.

Senator Carroll spoke in support of the policy, noting the chimney effect created by smoking in which the smoke rises up the staircase at the entrance to Newcomb Hall.

The policy for a tobacco-free campus was then approved unanimously by the senate in a voice vote.

**Committee on Faculty Tenure, Freedom, and Responsibility**

Senator Hill announced two committee motions to amend the Faculty Handbook. The first motion called for the addition of a single sentence to the introduction, stating that the handbook does not constitute an enforceable contract under Louisiana law. The second motion called for replacing the current wording in Article V, Section 2, of the handbook with the Interim Principles and Procedures on Financial Exigency that had been previously approved by the senate.

In discussion of the first motion, Senator Purrington asked why the Faculty Handbook was not enforceable as a contract. President Cowen noted that General Counsel Johnson was not present to address the legal issues. Senator Hill said the committee was given to understand that state court decisions had set the precedent that guidelines like the Faculty Handbook are not contracts. Senator Diamond said that the question of the handbook's status remained arguable because of a recent court decision. He suggested that adding the sentence proposed would be yielding on an issue that had not been properly resolved.

Secretary Mackin moved postponement of the first reading of both FTFR motions to the September meeting because a number of senators were absent and because new senators would be taking their seats in the fall. Postponement would allow the new senate to hear the first reading and have a month to consider the changes before voting on the second reading in October. President Cowen added that a postponement would allow the board to have an opportunity to express its views on the interim principles, which the second motion would make a permanent part of the handbook. The president said he would stipulate that if an emergency arose, the administration would follow the interim principles through the remainder of 2008 or until
the Faculty Handbook was revised.

The motion to postpone was approved unanimously.

**New Business**

**Resolution on Process for Adopting a Revised Student Code of Conduct**

Senator Cullen proposed a resolution “that the senate reaffirm its role in the approval process of the Code of Student Conduct as determined by precedent and that a new code shall not come into force until the changes are also approved by this body.” Senator Cullen said that precedent for more than thirty years has required senate approval. He said that the new proposed code of conduct included procedures for its approval that did not include the senate. He had been given to understand that the new code of conduct would take effect in Fall 2008, but that timeline would require bypassing the senate.

Secretary Mackin pointed out that in the senate bylaws, the Senate Committee on Student Affairs did not have executive authority to approve the student code of conduct but had advisory authority to recommend approval to the senate. If Senator Cullen’s description of the proposed process was correct, that necessary step had been dropped out of the revised code.

Senator Carroll proposed an amendment to add the phrase “and defined by the senate constitution and bylaws” following the term “precedent” in the resolution. Her amendment was accepted without objection. The resolution then read, “that the senate reaffirm its role in the approval process of the Code of Student Conduct as determined by precedent and defined by the senate constitution and bylaws and that a new code shall not come into force until the changes are also approved by this body.”

Senator Purrington asked why the motion was needed. Secretary Mackin said the motion was simply a resolution affirming the senate’s constitutional role. It was not procedurally necessary, but apparently the student senators felt it was necessary to remind those involved in the process of what the correct procedures were.

Dean Cherrey said the resolution was premature. The revised code was a major revision and many further steps were involved before a version would be finalized.

The question of the need for the resolution was again raised. President Cowen asked if there were any member of the senate who believed that the code did not need to be approved by the senate. Senator Pearlmutt, the chair of the Senate Committee on Student Affairs, said she was under the impression that her committee had executive authority to approve the code without bringing it before the senate.

Secretary Mackin responded by reading the applicable section of By-Law III, which he said clearly stated that the committee’s authority was “to advise the Vice President for Student Affairs/Dean of Students and the University Senate on all matters affecting student life. The Committee will consider student organizations, student publications, housing of students, student health, student conduct and discipline, diversity and multicultural affairs, co-curricular activities, auxiliary and student services, and similar social and cultural aspects of student life.”

After some further discussion, the previous question was moved, seconded, and approved unanimously, ending debate. Senator Cullen's resolution was then approved by a large majority in a voice vote.

President Cowen asked if there were any other new business. Senator Purrington said he would like the university to consider reducing the amount of light reflected into the night sky by the globe lights on campus. He said the lights wasted energy and created problems for viewing the night sky. The president referred the issue to Ms. Liz Davey, coordinator for the office of environmental affairs. She said that in the past year her office reviewed the Leadership in Energy and Environmental Design (LEED) Green Building Guidelines with the intention of applying them to future campus projects. Light pollution, specifically from the globe lamps that send light upwards, was an issue that LEED encouraged the university to address. The university architect had been made aware of the
issue, and future lamps would meet the standard
and not cause light pollution.

With no further business, the senate
approved the motion to adjourn by rising vote,
ending the meeting at 4:50 p.m.

Respectfully submitted,
Jim Mackin, Secretary

Secretary’s Note: All written reports mentioned
in the minutes will be available on the senate

Appendix 1, Committee on University Honors, Proposed Bylaw Change

Change to By-Law VI: Honorary Degrees

(1) Nominations of candidates shall be made to the Senate by the Senate Committee on University Honors and the Board Committee on University Honors, sitting together, with the exception that under special circumstances the privilege of nominating from the floor can be extended if there is a two-thirds majority of the voting membership in favor of receiving the nomination in this manner.

(2) Voting on such candidates shall be by written ballot in a session of the Senate attended only by voting members or their proxies. The proceedings of this session shall be kept confidential. No candidate shall be recommended by the University Senate to the President for review before recommendation to the Administrators for an honorary degree unless the candidate receives an affirmative vote of two-thirds of the voting members who are present.

(3) Any candidate thus presented to the Senate and failing to receive a recommending vote shall not be reconsidered within that current session.

Appendix 2, Committee on Committees Proposed Bylaw Changes

By-Law III, Committee on Equal Opportunity

Current Language Designating Title and Describing Functions:

Committee on Equal Opportunity: Functions
Executive: to prepare and implement policies concerning affirmative action in connection with the University's Affirmative Action Plan.
Advisory: to make recommendations to the Senate in this area.

Proposed Language Designating Title and Describing Functions:

Committee on Equal Opportunity and Institutional Equity: Functions
Advisory: To advise the Senate on the development and implementation of policies, procedures and practices pertaining to
1) recruiting and retaining a more diverse faculty, staff and student body;
2) enhancing the implementation of diversity policies;
3) improving the climate for under-represented faculty, staff and students.

In fulfilling its advisory functions, the Committee is expected to work closely with the Office of Institutional Equity and other responsible parties with roles in improving affirmative action, institutional equity, and diversity at the University.
By-Law III, Committee on Review of Faculty Status Decision Impasses

Delete sections on functions and membership from the bylaws.