

MINUTES OF THE HOUSE HIGHER EDUCATION.

The meeting was called to order by Chairperson Lisa Benlon at 3:35 p.m. on April 8, 2002 in Room 231-N of the Capitol.

All members were present except: Mary Pilcher Cook (E)
Eber Phelps (E)
Jo Ann Pottorff (E)
Bill Reardon (E)
Lee Tafanelli (A)
Ralph Tanner (E)
Jonathan Wells (A)

Committee staff present: Carolyn Rampey, Legislative Research
Paul West, Legislative Research
Jim Wilson, Revisor of Statutes
Dee Ann Woodson, Committee Secretary

Conferees appearing before the committee: Janice DeBauge, Kansas Board of Regents
Duane Dunn, President Manhattan Area Technical College
and President of the Kansas Association of
Technical Schools and Colleges (written)
Dr. Jerry Farley, President of Washburn University (written)

Others attending: See attached list.

SB 647 - Kansas higher education coordination act amendments

Chairperson Benlon opened the hearing on **SB 647**, and called upon Paul West, Legislative Research Department, to give an overview of the bill. He said that it recently came out of the Senate Education Committee and amends the Higher Education Coordination Act of 1999, more commonly known as SB 345, and specified that the Kansas Board of Regents would serve as the representative of the public post-secondary education system before the Governor and the Legislature as opposed to current law. Mr. West's overview followed the Supplemental Note on **SB 647**. (Attachment 1)

Representative Storm asked if the performance agreements and state funding are those detailing the provision that were in SB 345 or was that new. Mr. West responded that SB 345 had performance based bonuses that were permitted, but it wasn't that type and this was providing a little more incentive for individual institutions to cooperate with the Board. He added that it definitely gave the Board more authority over all in-state funds.

Representative Storm inquired if he knew what the reaction was of the technical and community colleges to this proposed legislation, and Mr. West replied that they had testified favorably towards the bill. The Committee questioned the reference made on page 1, lines 27-29, to redefining municipal universities, and Mr. West stated that was done as a compromise between the parties.

Janice DeBauge, member of the Kansas Board of Regents, and Chair of the Commission on Higher Education Coordination, testified as the first proponent on **SB 647**. She stated that the Board of Regents' 36 institutions, the Kansas Association of Community College Trustees, and the Kansas Association of Technical Schools and Colleges, in affirmation of that entity, were requesting the enactment of amendments which would build on the plan set forth by the Legislature in 1999. She said the plan aspired to greater accountability, efficiency, and collaboration within the higher education system in Kansas. Ms. DeBauge explained that over the years there had been several systems of higher education developed, each with its own set of policies, statutes, and regulations. She testified they were proposing that, in partnership with the Legislature and the 36 institutions, the Board of Regents would create an integrated,

CONTINUATION SHEET

performance-based system that will serve to combine the state's already effective programs and institutions into a true system that creates and relies upon accountability and efficiency.

Ms. DeBauge stated that the Board of Regents and the 36 institutions had determined that their goals can best be accomplished by tying incremental state funding to performance agreements executed between local autonomous governing boards and the Board of Regents. She told the Committee that the Board of Regents was willing to be held accountable by the Legislature for the performance of the entire higher education system, which they presently are largely free of that responsibility, in that funding formulae were set in statute and were unrelated to institutional performance. She added the result was the Board had very little ability to enforce accountability for state tax dollars. Ms. DeBauge said that in order to create an integrated accountability system, they were requesting that future incremental funding be tied to performance and that both the institutions and the Board be held to performance standards. She also stated they would suggest that this change coincide with the implementation of the performance-based funding system in July 2004. Included with Ms. DeBauge's written testimony was a copy of an affirmation of these amendments signed by the representatives of the Kansas Board of Regents' 36 institutions, the Kansas Association of Community College Trustees, and the Kansas Association of Technical Schools and Colleges. (Attachment 2)

Representative Horst inquired about the reference on page 5 in regard to failure to enter a performance agreement would prevent a post-secondary educational institution from receiving any new state funds, and if the institution did not get the funding in relationship to a performance agreement that it was allocated in the following year. Ms. DeBauge responded that it was a compromise between the Board of Regents and Washburn University and was in regard to concern by some legislators about money being removed forever. Dr. Jerry Farley, President of Washburn University, explained the basic concept of providing funds as incentive to accomplish measures of accountability was something Washburn supported as well as all the other state institutions and 34 states around the country have adopted. He clarified that what was proposed regarded the incremental increase base budget funds, and if the base budget is adjusted in some year because no incremental increase was provided then it would have a dramatic impact over the long run for that institution. He added that there was never an opportunity for that institution to make up those based budget funds that have been lost. He gave examples of how the withholding of funds could greatly affect the operation of institutions.

Representative Horst stated she was concerned about not meeting the standards for two years in a row and still getting the funding, but also the complicated language of compromises within proposed legislation. She said she would work with staff to get a further clarification and understanding of the issue.

Representative Sloan expressed his uncertainty regarding the language whereas they get the funding later after they did not meet the performance standards. He stated he thought there should be a caveat or waiver if they subsequently achieve the performance standards; then the funding could be reinstated, but not until they meet the standards. Dr. Farley stated that he disagreed, and explained that in each year you could be at risk and if you did not meet that particular year's measures the institution would lose funds.

Representative Sloan referred to page 8, lines 4 and 5, where it talked about municipal universities for the second time in this proposed bill, and asked why this language was being changed. Mary Prewitt, General Counsel for the Kansas Board of Regents, responded that it was not a change in the language, but simply to make the rhetoric more applicable, and not to single out one particular university. She said it was true that under laws currently written the language refers to one municipal university in the system, but it's just a matter of the Courts wanting the wording in statutes to be the change in the language was intended to make the definition of municipal university more uniform with the other definitions.

Representative Lane referred Ms. DeBauge to her testimony regarding the amendments building on the plan set forth by the legislature in 1999 relating to greater accountability, efficiency, and collaboration. He requested clarification on these efficiencies and effectiveness and whether it translated into dollar savings. Ms. DeBauge explained briefly what the demands are in higher education across the nation, and that they were serving more students continuously along with the fluctuations in tuition between the various institutions.

Chairperson Benlon pointed out to Committee members that they had written testimony submitted in support of this bill by Dr. Duane Dunn, President, Manhattan Area Technical College, and also

CONTINUATION SHEET

President of the Kansas Association of Technical Schools and Colleges. (Attachment 3)

The Chair asked Dr. Farley if he would like to make any comments in addition to his written testimony that he had submitted. Dr. Farley said Washburn University was very supportive to the proposed legislation as amended. He stated that the amendments were satisfactory to all parties, and they fully supported the concept of coordination and appreciated the efforts of the Kansas Board of Regents in making a coordinated system a reality. (Attachment 4)

Chairperson Benlon asked if there was anyone else present to speak as a proponent of **SB 647**, and there were none. She then inquired if there were any opponents present to speak in opposition to the bill, and seeing none she closed the hearing on **SB 647**.

The Chair opened the floor for Committee discussion on **SB 647**.

Representative Sloan referred the Committee to page 5, line 15, after the word "year" he thought consideration should be given to putting a comma and offer the concept if they subsequently achieve compliance with the performance agreement then they would get the money or, in the alternative, the Board would approve a waiver for just cause as otherwise the incentive is lost.

Representative McLeland stated that he would like to go further that if the institutions did not meet the goals this year or the following year then they do not get the money, and it is lost forever. He explained that he felt they would know after the first year where they needed to improve for the second year to get the money reinstated, but if after two years of not complying the money should not be allocated to them.

Representative Storm asked the Board if the performance objectives are set, was there a new set of goals every year, or was there a long-range goal with yearly milestones. Dr. Kim Wilcox, Executive Director of the Kansas State Board of Regents, responded by telling the Committee that the key piece of the proposed amendments was the time interval, and much of what the Committee members were asking was undefined so far. He said they had not had the opportunity to address those very questions. He stated that there were opportunities for some schools to possibly enter into a series of one year agreements, and other schools a half a multi-year agreement to fit their particular situation, there are opportunities for schools to think about and formulate their future which might be a little more dependable in a sense or stable, and others to look more creatively at the future. He said the next two years would give the Board of Regents a chance to have those discussions and to look at those collective differences in a way that it makes sense together. Dr. Wilcox told the Committee that they had not had those discussions in the past because there was no opportunity for moving in those directions.

Representative Storm asked Dr. Wilcox if the goals were suppose to be objective and measurable, and he responded in the affirmative. Dr. Wilcox explained that under SB 345 the Board was to craft performance indicators for every school, and then direct it to the campuses to craft institutional improvement plans with measurable goals and objectives in them. He said they had been at that process for over a year and a half now, and are well down the road in their discussion with the campuses. He explained what these amendments do allow the entire system to think not only about the funds, but also in terms of the conceptualization so that if it wasn't the case where all the institutions have to have the same kinds of indicators and may be more diverse, but at the same time are things that are clearly measurable and represent the breath of the institution. He stated that he felt it would not be in the best interest of the Board of Regents or the local governing board's interest to craft an agreement that wasn't fairly measurable because it would lead to confusion and other problems.

Representative Storm said she assumed there was more than one goal and there could be six for example, so determining whether or not the goals were met would be like saying 80% of the goals were met. Dr. Wilcox agreed and commented that one of the challenges they had under SB 345 was that it did not provide them with that amount of latitude in terms of degree of completion.

Dr. Wilcox wanted to comment on the funding issues brought up earlier, and shared with the Committee that it had been a point of much discussion over the past several months plus it was one of the key pieces of discussion during the Senate debates. He said the Senate Education Committee particularly spend a lot of time discussing the very same questions that Representative Horst and Sloan are offering. He continued that from that debate there was an agreement that the kinds of incentives that were included

CONTINUATION SHEET

here were not as far reaching as Representative McLeland would suggest, but were none the less sufficient enough to move the system and provide the institutions with stability while at the same time provide the Board of Regents with some instrumentality. He stated it seemed to him that these amendments provided an opportunity in the next two years for all of us to collectively think about that balance of stability versus instrumentality on a state-wide perspective as well as the details of what these agreements might look like. He clarified that he certainly does not dismiss the unease of the institutions to endorse this plan given the amount of unknowns we have in play right now. He reiterated that he believed this would move the state clearly in the right direction.

Representative Storm communicated to the Committee members that they did not have any idea what these standards looked like or how specific they would be, but surely in the first year they were not necessarily linked to money but over time if not receiving that money instead of a \$1 million it becomes \$2 million, etc. She continued that they are still working on these performance standards and at some point we have reduced the possibility that they will ever meet the goal if the funding is withdrawn year after year. She said she did not know where that line was, but thought it was something the Committee should think about.

Representative Horst asked when it was anticipated that the idea of the standards would be solidified that you can bring them to us and tell us what they are, and she had not seen any of them and did not know what they were. She expressed her concern of putting things in the statutes that didn't exist yet. Dr. Wilcox replied that with the passage of these amendment, they would begin working earnestly on all of these aspects right a way and particularly the performance agreements in hopes that they could include them in the budget formulation in the spring of 2003 for fiscal year 2004. He said it would be difficult for any other parties, the Board of Regents or the local boards, to craft these performance agreements not knowing what the full range of consequences were. Dr. Wilcox explained that for instance to develop the performance agreements assuming the kinds of incentives that are incorporated in the present set of amendments would be one thing, but then to have Representative McLeland's interpretation would be quite different after the fact. He stated he thought it was very important that the institutions and the Board have some clarity as to both the risk and stability factors of those two perimeters to define the enterprise so we can get this going in the right direction.

Representative Horst recounted that they needed this language so the individual institutions could begin to move forward with the Board in developing the standards that they intend to meet, and the quality of those standards may be driven by what there risks were. Dr. Wilcox stated that it only made sense that in the current SB 345 funding plan where there is a 2% bonus possible bonus, institutions would probably think differently about that reality than in one where their base dollars were. He said you might argue one allows you to take more risk than the other, but one also encourages you to think more central in your descriptive missions then the other and craft things in a way that really moves you for a long term.

Representative Sloan again stated his uncertainty with the regard to there being no true consequence for not meeting the performance standards because they will get the money any way.

Representative Horst expressed her concern with the municipal universities wording, and asked if there was a definition some place in the statutes for municipal university. She said if there was such a definition in the statutes she thought it would be better to use it than to elude to the fact that more municipal universities were going to be developed.

Chairperson Benlon asked Dr. Wilcox if there were any plans in the future to start any new municipal universities, and he replied that there were none that had been shared with him.

Jim Wilson, Revisor, said there were a set of statutes under which Washburn University was created, and explained the use of a plural as set out by statute. He explained it was a matter of drafting policy to a certain extent, and didn't think there was any legal difference as to whether it would hurt or not. Washburn University is the only one allowed by statute to be a municipal university.

Chairperson Benlon asked if anyone had any suggestions for amendments that they would feel more comfortable with. Representative Sloan made a motion to amend line 15 on page 5, after fiscal year it be added if they subsequently achieve the performance agreement or the Board of Regents approves a waiver covering that institution. The motion was seconded by Representative Horst.

CONTINUATION SHEET

The Chair opened the floor for Committee discussion on the motion. Representative Kuether stated she did not support the amendment because it was two years down the road and they would have time to look at it again.

Committee discussion continued. Representative Horst said she would rather err on the side of having more description so there are realistic goals that are set instead of unrealistic. She stated she agreed that it is extremely open and broad, and thinks it was great that they were moving in this direction. She told the Committee she was not even sure they needed to have a whole lot of language covering is, but it appears they do so she was going to support it. She directed the Committee's attention to page 4, line 37, where it said "Commencing on July 1, 2005", so this was not intended to be implemented until 2005. She said it would be revisited later from another point of view if indeed the amendment does go on and if we determine in a year or two this is an impediment then it would be better to remove the impediment rather than put a new one in its place. She would rather be stricter at the beginning and then loosen up then have to come back and say we were too broad.

Representative Gordon commented that she preferred to stay more open until we know what we are doing because it is a lot easier to put a rule in place rather than have to take it off.

Chairperson Benlon called for a vote on Representative motion to amend. The vote being four (4) in favor and five (5) against the motion to amend, the motion failed.

Representative Horst made a motion to amend page 1, line 27 and 29, that municipal university be a definition of a municipal university that is presently in the statues that established Washburn University, and that on page 8, line 5, that universities be changed to read university. The motion was seconded by Representative Sloan.

The Chair called for Committee discussion or comments. Representative Krehbiel said he could not see the point of changing the definition, and would not support the amendment.

Representative Horst closed on her motion by explaining that she made the motion in accordance with the definition of municipal university, and could see no purpose in saying universities when there was only one municipal university which was established by statute.

Chairperson Benlon called for the vote which was four (4) voting in favor of the amendment, five (5) voting in opposition to the amendment, and the motion to amend failed.

Representative Kuether made a motion to pass out **SB 647** favorably, and seconded by Representative Storm. The motion carried.

Chairperson Benlon adjourned the meeting at 5:10 p.m.

CONTINUATION SHEET