

Approved 3-26-87
Date

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

12:40 a.m./p.m. on March 25, 1987 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Lynne Holt, Legislative Research Department
Mary Allen, Secretary to the Committee

Conferees appearing before the committee:

Dr. Frances Horowitz, Vice Chancellor for Research, Graduate Studies and Public
Service, University of Kansas
Fred Sudermann, Wichita State University
Dr. Robert Kruh, Dean of the Graduate School, Kansas State University
Bill Hollenbeck, Pittsburg State University
Kevin Carr, Kansas Technology Enterprise Corporation
Nick Roach, Division of Purchases

The meeting was called to order at 12:40 p.m. by the Chairman, Senator Wint Winter, Jr..

House Bill 2077 - An Act concerning the Kansas technology enterprise corporation; relating to centers of excellence; concerning functions thereof.

House Bill 2078 - An Act concerning educational institutions under the supervision and control of the state board of regents; relating to certain research and development projects and activities and expenditures thereunder; acquisition of goods and services; providing for certain exemptions.

The Chairman called on Lynne Holt, Legislative Research Department, to explain HB 2077 and HB 2078. Ms. Holt said that HB 2077 would amend certain statutes to permit projects funded by the Kansas Technology Enterprise Corporation (KTEC) to involve incidental amounts of basic research, applied research and development, technology transfer, and technical assistance or training, which might be different from these projects' principal research activities. She said that, as amended, the bill would provide for the development by KTEC of a level of core funding for each center of excellence for basic research. These funds would be exempt from matching provisions and would serve as a precondition for the funding of new centers and the augmentation of funding levels of established centers. The bill, as amended, would delete references to specific centers of excellence. She stated that HB 2077 results from a recommendation for legislation by the Legislative Commission on Kansas Economic Development.

Ms. Holt said that HB 2078 would exempt from state competitive bidding procedures contracts of state educational institutions for the acquisition of goods and services for research and development activities, as defined in the bill, if such purchases would be financed fifty percent or more by moneys received from KTEC, federal agencies, or private sources. The bill, she stated, originates from a recommendation by the Task Force on Higher Education to the Legislative Commission on Kansas Economic Development.

Dr. Frances Horowitz, Vice Chancellor for Research, Graduate Studies and Public Service at the University of Kansas, spoke to the Committee in support of HB 2077 and HB 2078. Dr. Horowitz also offered some suggested amendments to HB 2078. (See Attachment I for copy of her statement and for her suggested amendments.)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

room 529-S, Statehouse, at 12:40 ~~a.m.~~/p.m. on March 25, 1987

Fred Sudermann, Wichita State University, told the Committee that he supports the comments made by Dr. Horowitz on HB 2077 and HB 2078 and noted that her comments apply to the entire regents' system and not just to Kansas University. He stated that he supports local flexibility with appropriate post audit controls of purchasing for research.

The Chairman introduced Dr. Robert Kruh, Dean of the Graduate School at Kansas State University. Dr. Kruh stated that he agrees with the testimony given by Dr. Horowitz. He noted that the issue in HB 2078 has to do not with general use funds but with those funds which the faculties in the regents' institutions are successful in securing from outside sources. He observed that the collective infusion of outside omoney from the regents' universities in Kansas approaches \$60 million. He said that this bill relates to the flexibility which is needed to deal with outside sponsors who supply money to carry out projects which can have a direct benefit for Kansas. He stated that flexibility in purchasing is needed. He observed that there would be no less accountability if they were permitted to do local agency purchasing. Procedures could be put in place to handle the necessary arrangements. They would be fully accountable, they would have the necessary audit for the execution of the local purchasing. Dr. Kruh told the Committee that if an outside sponsor sees that there is too much of a cumbersome process within the state, frequently that sponsor will engage the services of a private consultant.

Chairman Winter observed that if an outside sponsor donates money or makes a grant to a regents' university in Kansas for a specific project, that money all flows through the state system, just like state general fund money, and is subject to exactly the same restrictions as if it came out of the pockets of the taxpayers. It is restricted fee money but it is subject to all of the same processes as state general fund money.

Bill Hollenbeck, Pittsburg State University, said that he supports the comments made by the other conferees and he supports the changes which have been recommended in HB 2077 and HB 2078.

The Chairman introduced Kevin Carr, Kansas Technology Enterprise Corporation (KTEC). Mr. Carr said that KTEC funds research matching grants at four universities in Kansas. He stated that KTEC supports both HB 2077 and HB 2078. Concerning HB 2077, he said that KTEC feels that the definition of centers of excellence was too strict in the law passed last session. He stated that KTEC has always supported a modest level of core funding without the matching requirement at all of the centers of excellence. Mr. Carr discussed HB 2078 and noted that on a conceptual level, KTEC supports decentralized purchasing on projects sponsored by industry or externally funded projects.

Nick Roach, Director of the Division of Purchases, spoke to the Committee and noted that he has no major problem with HB 2078 particularly if an annual reporting requirement is added to the bill.

The meeting was adjourned at 1:30 p.m. by the Chairman.

GUEST LIST

NAME

REPRESENTING

Frances Regan Horowitz	KU+ Regents Institutions
Mich Roach	Division of Purchases
Bill Hollenbeck	Pitt St Univ
R.F. KRUEH	Kansas State University
Kevin Carr	Ks. Technology Enterprise Corp.
Fred Sederman	Wichita State Univ.
TONY REDWOOD	KU.

March 25, 1987

Testimony Before the
Senate Committee on Economic Development
in Support of HB 2077 and HB 2078

Frances Degen Horowitz
Vice Chancellor for Research, Graduate Studies and Public Service
The University of Kansas

I appreciate this opportunity to appear before you and to indicate our strong support for House Bills 2077 and 2078. These bills reflect, I believe, the growing partnership between the Regents' institutions and the Legislature as we try to find ways in which higher education in Kansas can redouble its efforts to contribute to the economic revitalization of Kansas through activities that will, in the long run, create jobs.

I will address each of these bills separately and indicate to you the reasons we are supportive of them. My testimony here today is essentially the same as I gave to the House Committee on Economic Development. First, House Bill 2077. This bill is in large measure one which was passed in the last session of the Legislature. The changes are, basically, "clean-up" changes to provide official wording to give important latitude to activities in the Centers of Excellence. The wording changes permit the Centers to undertake additional activities to enhance their primary mission.

*Senate Committee on Economic Development
3-25-87*

Attachment I

For example, the Centers of Excellence for basic research will engage in basic research, but the word "primarily" is added to recognize that sometimes it is absolutely necessary, in the pursuit of a basic research problem, to take on some applied questions which feed back into a basic research project. Similarly, Centers of Excellence devoted to applied research must, on occasion, drop back to do a little basic research in order to make progress on a specific applied problem. If the Centers were, by legislative wording, prohibited from such flexibility, important work might be stymied unnecessarily, thereby reducing the potential of the Centers to realize their goals of enhancing economic development in Kansas. Thus, the word "primarily" is inserted to define the mission of each kind of Center of Excellence while permitting other research which is incidental but very important to the main mission of a Center. We support these wording changes because they will enhance the kinds of contributions the Centers can make to economic development in the State.

One provision that we suggested was added to this bill by the House Committee. It had been recommended in the report of the Legislative Commission on Kansas Economic Development but was, we believe, left out inadvertently. The purpose of this provision recognizes that, in the ultimate, basic research drives applied research and technology transfer. With respect to basic research, however, the scope for private sector matching funding is more limited because the payoff is much longer term. Therefore, the provision permits a modest core budget for basic research centers that would be exempt from the matching provision. This core funding would not be sufficient to carry out the mission of the basic research centers; but it would provide an important stable underpinning to the Centers, enabling the retention of key personnel. These kinds of individuals can only be recruited if some period of job continuance is

promised, subject, of course, to acceptable performance by the individual. In recruiting such personnel the Centers are competing nationally for highly sought after technical and scientific associates.

Since the basic research centers will be reviewed periodically and since the level of core funding will be decided by the Kansas Technology Enterprise Corporation as a result of an external peer review, the provision for some core funding without a match requirement will not give the basic research centers a blank check. Rather, it will provide an important stabilization factor that will help each Center increase its productivity by being able to recruit and retain certain key personnel. I shall be happy to answer any questions you might have about this at the conclusion of my testimony.

House Bill 2078 addresses a very important problem which we encounter in the Regents' institutions in connection with sponsored projects. "Sponsored projects" is the technical term which we and others use to refer to projects taken on by university faculty and staff that are funded externally by federal agencies and other external sponsors. These sponsored projects come to the university as a result of applications and proposals made by faculty and staff to external sponsoring agencies or because an external entity has asked the university to solve a particular problem. Last year the total volume of these kinds of awards to the University of Kansas (the Lawrence and the Medical Center campuses) was in excess of \$36 million. The economic impact on the state is calculated at over \$100 million. To evaluate the importance of this to the State's economic activity one must add to this an indirect impact stemming from several factors. One is that a portion of these awards is for research, training

and development activities from the private sector. To the extent that the results of the activities make private sector clients in Kansas more competitive and profitable, they enhance the State's economy. When we serve private sector clients who are from outside of Kansas we not only bring new money into Kansas but we increase the probability that these entities will continue to award contracts to the university. In some instances these entities will consider locating a portion of their enterprise in Kansas in order to be near the expertise important to their profitability.

A second factor is that excellent performance on grants and contracts, no matter their source, tends to attract even more such project activity. It helps us to attract excellent graduate students, and it increases the quality of education and experiences available to undergraduate students. In addition it is these kinds of activities and the spin-off companies which will help us retain the best and brightest of the students who now leave the state to find employment elsewhere. These "value added" elements are, we believe, making important contributions to the realization of our common aspirations to enhance and diversify the economic base of the State.

The grants and contracts we receive, however, share one common characteristic. They are all "time sensitive." That is, they are given for a certain period of time. During that period of time there is the expectation that particular work will be carried out, that a product or process will result and that it will be delivered by the time specified. It is this common characteristic that produces the problem which House Bill 2078 proposes to solve. The bill provides for the exemption of purchasing from State procedures when those activities have as their source at least 50% funding from a sponsored project.

Of the \$24 million in sponsored project activity on the Lawrence campus \$1 million in expenditures would have been affected by this bill. It is a small amount from the sponsored project activity at KU and an even smaller part of the overall State purchasing function. Yet these expenditures loom large at KU--they represent the core of sponsored project enterprise at KU. These research and training projects are essential to the health of KU as a comprehensive research university. They represent the heart of KU's capability to contribute to economic growth for the State of Kansas. When these funds are subjected to the State's purchasing procedures the result is a conflict with the extremely time-sensitive nature of the projects. This is because they elongate the amount of time needed for procurement of goods and services--time which is precious in the conduct of a project and the achievement of excellent results in a timely manner; they put up barriers to efficiency and to economy. Let me give you some specific information and examples:

1. The average time for procurement of goods which are acquired using the centralized State purchasing procedures is 63 days; university direct purchasing averages 17 days. This is a savings of 73% in terms of time. A campus based purchasing system for the limited items on sponsored projects, with due safeguards for sound business practice and accountability, will save precious time and permit us to be more timely and more responsive to the contracting clients, increasing the probability that good performance will contribute to renewed and expanded contracts and grants, thus enhancing not only the volume of funding but giving better service, especially to the private sector.

2. In addition to the issue of time, there is the matter of flexibility and fiscal responsibility. As an example, one of our faculty, working on research supported by a grant, had a key component on a major piece of equipment fail. The research was interrupted and critical days were to be lost while the component was fixed. It was possible under State procedures to secure emergency permission to have the component repaired without going through the bid process. But it happened that this piece of equipment was quite old. The researcher determined that a newer upgraded model was available and could be purchased which would do a better and more efficient job and have some needed new capabilities. The repair of the old equipment was quite costly. Given the age of the equipment and its near obsolescence it was not good business practice to invest in the repair when funds were available in the grant that could be put toward the purchase of the new equipment, if one did not have to pay for the repair. However, if the researcher wanted to buy the new piece of equipment, State purchasing procedures required that he go out on bid. The time necessary to prepare the bid specifications and go through the bid process would have consumed at least two to three months. The project could not afford to lose that much time and produce the promised results when they were due. So, the researcher repaired the old equipment; he then did not have enough money to buy the newer model. The result was a repaired piece of older equipment, obsolete and soon to break down again. This is not sound management of resources.

3. Another example: A piece of equipment was needed for research, the funds were provided by the grant; bid specifications were prepared and the bid was let. While the bids were out the manufacturer announced a new, superior model with modifications and new capabilities. For a few \$100 more this new model could have been purchased. But, we did not have the flexibility to take advantage of this opportunity in a timely manner. To buy the newer model the investigator would have had to start the bid process all over again--losing time and delaying the research. The investigator could not afford to lose that time. Instead, he went ahead and purchased the outmoded equipment, foregoing a purchase, for a little more money, of a superior, state-of-the-art model.

I could provide you hundreds of such examples from only the last few years--they all involve being unable to respond in a timely, flexible manner to take advantage of cost-saving, time-saving, efficiency-producing opportunities--to the detriment of strengthening the university's capabilities to conduct the sponsored project activity that ultimately strengthens the economic base of the State.

As House Bill 2078 now stands it would greatly enhance the Regents' institutions capabilities to attract external funds and to perform in a timely manner--to the benefit of the institutions and to the State. I must, however, mention one other matter--it has to do with travel associated with sponsored projects. When sponsors of research, development and training activities provide for travel funds on a grant or contract they do so for particular reasons. They have determined that the staff associated with the project need to travel to accomplish the goals of the project. These may involve getting information in a timely manner, being at a certain place at

a certain time, sometimes with little notice. Some grants require considerable travel. There are two problems which we now encounter under State procedures. One is prior approval by the State, through the Board of Regents, involving three to four weeks lead time; the second is limitation on recovery of expenses. This results in faculty and staff having to pay out of their pockets legitimate costs for which they have receipts and for which there is money in the grant but which the State will not permit to be recovered because of State regulations regarding limits on permissible expenses.

HB 2078 could accommodate these travel-exempting needs by reinstating lines 0033 to 0039 as originally included in this bill (as shown in the attached list of suggested amendments).

In giving you all of these examples we are not being critical of sound State purchasing procedures. Rather, I have described the kinds of problems we routinely encounter. Timing and flexibility demands are regularly part of university-industry cooperative research programs; in the private sector "time is money." Sponsored project purchases are often unique, specifically determined by circumstance and subject to severe time limitations which have profound impact on project productivity. The constraints that we encounter are time consuming, inefficient and have a demonstrated negative effect on productivity. The solution is very appropriately provided for in this bill. It removes sponsored project purchasing from a system that was not designed to handle these problems and permits the university to establish a separate, campus-based, accountable and responsive system to facilitate acquisitions-- acquisitions which, after the project is completed, usually remain at the university to be used for other research and for the education of students.

In its intent this is an excellent bill and one which would increase productivity significantly. There are a few details that we believe merit your attention. Specifically, we would suggest that the words "or private sources" on line 31 be changed to "or other external sources." The reason is that in addition to KTEC and federal agencies we hold contracts and grants not only from private sector sources, but from state agencies in Kansas, from other states and from other universities around the country. Therefore, the suggested change in wording. Another minor change, for consistency--and to use the technical terminology that covers the kinds of projects involved: On line 46 we suggest that the word "research" be deleted so that the reference is to "sponsored projects" and then that the words "or any other research and development activity" be added to conform with the language of the first part of the bill.

The provisions of this bill are heartening because they will help us solve a problem that has been and is a barrier to efficient use of resources. This is especially the case as we increase our private sector relationships. Our private sector contractors are very puzzled and ultimately frustrated when they work with us under our current procedures. They do not understand why it takes 28 days to get approval to travel. They do not understand why the work on a project must be delayed two to three months and sometimes more because a piece of equipment cannot be purchased in a timely fashion.

I want to assure you that the scope for abuse of the flexibility the bill will give us is extremely limited. Sponsors of projects demand accountability and efficient use of their funds. There is always a fixed total amount of money available; it is usually skimpy in relation to the demands of a project. It is in the interest of the university to conserve those funds and to make them go as far as possible. The incentive is to do

as much as we can so that the grant will be renewed or extended and/or attract other funding because of the excellence of the results. This kind of growth contributes to the reputation of the faculty and staff, to the reputation of the university and to the benefit of the State--ultimately enabling us at the university to make the maximum contribution to the economic development aspirations of Kansas.

Thank you very much for your attention; more to the point, thank you for being concerned and for considering legislation to help solve some of the problems we face. I shall be happy to answer any questions you may have.

HB 2078

Suggested Amendments

Section 1.

(beginning at line 0031)

technology enterprise corporation, federal agencies and other external sources.

Reinstate 0033-0039:

(b) Nothing contained in article 32 of chapter 75 of the Kansas Statutes Annotated shall be construed to limit or prescribe the conduct of any in-state or out-of-state travel or to limit expense allowances for such travel which is undertaken for and funded as a part of any research and development activity of a state educational institution. The provisions of K.S.A. 75-3208 and amendments thereto shall not apply to any such travel.

(c)

(beginning at line 0041)

(1) "Research and development activity" means any center of excellence at a state educational institution, any research or development project or activity at the state educational institution funded under a research matching grant program of the Kansas technology enterprise corporation, or any other sponsored research project or other research and development activity at a state educational institution; and

(2) "state educational institution" means a state educational institution as defined by K.S.A. 76-711 and amendments thereto.