

Approved: _____

Date

4/28/99

MINUTES OF THE SENATE EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Senator Barbara Lawrence at 9:00 a.m. on March 15, 1999 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Avis Swartzman - Revisor
 Carolyn Rampey - Legislative Research
 Jackie Breymeyer - Committee Secretary

Conferees appearing before the committee:

Others attending: See Attached List

Chairperson Lawrence called the meeting to order and stated the meeting was for the continuation of: **SB 345 - Kansas higher education coordination act**. The subcommittee met on Friday and made a few changes and clarifications to the bill. It is the Chairperson's intent to discuss the bill today and Tuesday and take a vote on it on Tuesday.

Carolyn Rampey began with a staff briefing on the subcommittee's recommendations. (Attachment 1) The first recommendation for change was to delete most of the references in the bill to Washburn, particularly with regard to Washburn being under the supervision of the State Board of Regents. This proposed change responds to a concern raised by the President of Washburn that the bill in its present form would subject the university to a greater level of state control than presently is the case and give the State Board of Regents authority that would compete with Washburn's own Board of Regents.

The second recommendation would clarify the approval authority for vocational programs by making the State Board of Regents responsible for approving vocational courses offered by those transferred institutions under its jurisdiction. The State Board of Education would be responsible for approving vocational programs offered in high schools. This proposed change would involve amending the school finance law to allow school districts to count secondary student enrollments in vocational programs offered by community colleges, technical colleges and area vocational schools for purposes of vocational weighting.

The next recommendation was to make the duties of the Board for Community Colleges and Vocational/Technical Education over institutions under its jurisdiction more consistent with the duties of the Board of the Board for Public Universities over its institutions by adding that the Board for community Colleges and Vocational/Technical Education would have authority to recommend for approval or disapproval course locations and would have the authority to initiate plans for institutional advancement.

The final recommendation was to add new sections to the bill that would implement performance funding for the institutions under the Board of Regent's jurisdiction, including Washburn University. Ms. Rampey went into the details of this recommendation.

In discussion, the Subcommittee agreed to bring before the full Committee the matter of phasing out the three derivative boards after four to eight years so that at some point appointees to the Board of Regents would not be designated to serve on one of the sub-boards that are advisory to the full boards. This point was also expounded on by Ms. Rampey.

Ms. Rampey responded to a question from one of the committee that this involves all institutions; Washburn University, the area schools, the technical colleges, the community colleges and the regents institution. The proposal is whatever the institution is receiving, up to 2.5% additional could be given that institution on the basis of how it performed on its indicators.

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It was asked if this was total tax funding or the state portion. Ms. Rampey deferred to Senator Kerr who responded that it is state funding. It is up to 2.5% in addition to whatever funding the institution receives. It is not in any way to interfere with a change in funding. This is strictly based upon performance. It is intended to be relatively small in size, but large enough to be an incentive to institutions to focus faculty and staff on getting aligned with the goals of those institutions.

Senator Kerr stated that he had received a draft of the proposed performance amendment, but he would like to do some adjusting to do before it is distributed.

The Chairperson stated that would be taken up tomorrow and started with the first proposed recommendation.

Senator Emert moved to amend SB 345 by deleting Washburn University from the Board of Regents and place it exclusively under the Board for Higher Education Coordination. Senator Downey gave a second to the motion.

The question arose over why Washburn University would be treated differently than any of the community colleges.

The Chairperson stated that presently Washburn University has its own Board of Regents. It has autonomy under its Board.

Senator Emert said, that it was not the intent to change the community colleges, nor the Regents or Washburn. The purpose of the amend next is to leave Washburn as it is as far as any supervision.

The Chairperson added that Washburn's funding is quite different from the Regents or the community colleges. That is the way the legislature has chosen it to be. Washburn has been rejected several times when trying to come under the Board of Regents. It has been given that autonomy in replacement for bringing them under the Regents. They are in an exclusive position because that is what the legislature has chosen.

Senator Kerr stated that it is his understanding that Washburn does want to be only under Coordination, it has no objection and is supportive of being included in the performance funding. He sees no huge conflict in seeing it be coordinated only, but including them in the performance funding.

David Monical, Director of Governmental Affairs, Washburn University, does not see this as a material conflict; Washburn is a public institution and it would be pleased to participate in the establishment of performance indicators. The coordination is simply to make it clear that there would not be a direct conflict between the Kansas Board of Regents and the Washburn Board of Regents on setting it priorities, programs, and so forth.

The Chairperson asked for further questions or comments on the amendment; seeing none, she called for action on the motion.

The motion carried.

The second proposal or recommendation clarifies the vocational programs, some of which are under the State Board of Education and some under the vocational-technical college authority.

Senator Downey moved to amend SB 345 with the recommendation, seconded by Senator Emert.

Vice-Chairperson Langworthy asked if the programs that would be under the State Board of Education were significantly different than those in the area vo-tech.

Senator Emert replied that he thought those that would be under the State Board of Education would be significantly different because they are secondary courses. The point that was made to the subcommittee was the Revisor saying that those courses that are offered outside the high school program are identical at both the secondary and at the post secondary level.

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Senator Umbarger asked about the school districts.

Mark Tallman, KASB, responded that the concern expressed previously was that the secondary programs offered by the USDs should stay with the State Board; this is a good clarifying step. He does not believe they have heard from those USDs that are involved of the governance of voc-tech schools.

The Chairperson asked if there was any further discussion; seeing none she called for action on the motion

The motion carried.

The next item concerned making the duties of the Board for Community Colleges and Vocational/Technical Education over institutions under its jurisdiction more consistent with the duties of the Board for Public Universities over its institutions by adding that the Board for Community Colleges and Vocational/Technical Education would have the authority to recommend for approval or disapproval course locations and would have the authority to initiate plans for institutional advancement. The Chairperson stated that this is just a matter of consistency among the two boards or derivatives. She called for discussion.

Senator Langworthy asked what it meant by authority to recommend but does not have the full authority.

The Chairperson responded that none of the derivatives have full authority; it has to be done by a vote of the full board. This board would investigate, recommend whether or not the locations were appropriate, plans and so forth. They have been given the assignment to study and recommend.

Senator Downey added that the community colleges brought the subcommittee some of the language of the duties and they noticed that under the Board of Regents they have the authority to approve or disapprove state funding for those courses, but under the community college board it was listed as recommend for approval; they want to keep it consistent. The recommendations come from the derivative boards, similar to subcommittee recommendations, but the full board has to act upon them.

Senator Hensley moved to amend SB 345 with the recommendation, seconded by Senator Downey. The motion carried.

The Chairperson went to the new section that would reward performance that was discussed by Senator Kerr. He stated that he could try to describe it conceptually, dealing with each sector separately. He began with community colleges. They have been working on a plan on core competencies for some time. What is envisioned is drawing upon those core competencies, with some narrowing, but focus on student outcomes and the quality of classes provided. The quality of classes is an item that frequently comes up with regard to some community colleges. The pool is less than \$2 million dollars. The Board of Regents would award those and they would be good for up to three years and then a new cycle would go into effect. They would not have to last for three years. The Board of Regents would have latitude in whether or not to continue. The pool in area schools \$1 million dollars; the pool in the case of the Regents would be about \$7.5 million dollars. The cap for any one school received would be 2 1/2% of their state funds.

The Board of Regents has been working on its performance indicators and how well it has executed its plan of improvement would be the guiding factor, as well. The way the amendment is drafted now sounds too much like an entitlement and the Senator would like to see some kind of cap so there is understanding there will be competition for these awards. Too high an award would reduce cooperation among schools and good cooperation would be one of the factors that should be included, but enough to get their attention. It is recommended not to make it a huge proportion. The timetable would be the same; July 1, 2001, plans would have to be before the Board and July 1, 2003, would be the Regents review of performance, and making the awards in each category.

Senator Bleeker commented that she would like to see something in front of her to look at tomorrow before the committee works it as it is a big policy decision.

The Chairperson said that there will be something before the committee to look at tomorrow.

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Senator Emert moved to amend SB 345 to provide that the newly reconstituted Board of Regents is paid in the same manner as the State Board of Education. Senator Downey seconded the motion.

In discussion Senator Emert stated that the State Board of Education is paid in the same manner as the legislature is paid.

Senator Kerr stated that he was assuming that Senator Emert meant only per diem.

The motion carried.

The Chairperson stated there was one other question brought to her and that was that the Board of Regents is now in the process of searching and selecting an executive director and a president for one of the regents universities. If language could be inserted that would make it possible to appeal any of the present Board of Regents to the new board it would be helpful in coordinating those efforts.

Senator Kerr commented that he thought it was vital that there be some means of continuity. The Board has several things going and it would not be good to have an entirely new board come about. It would be wise to work out some transition language. Another possibility is if there are four openings there might be a way to make use of those to not abolish the Board, and to put new people on.

Senator Emert stated that he agreed with the continuity issue. There is nothing in the bill that says the Governor could not reappoint everyone that is on that Board. The Governor could appoint everyone there that has not served two terms. There should be some discussion as to the implementation date of the bill.

Staff was asked to lay out what happens when under the bill and let the committee discuss it.

Senator Downey stated another thing to discuss with the governor or his staff was whether or not the designation has to be put into the bill about how this will be done and if there is a basic commitment to keeping those with experience here in this process of transition, as opposed to putting it in the language that says he must.

Senator Bleeker referred the committee to page 2, line 35 regarding the governor and first chairperson.

Senator Downey stated that the Revisor could be referred to, but the assumption was one of the reasons that it would be done was for the very issue that had been discussed, the continuity with regents who have been there over a length of time and who would have some background information that newly appointed members wouldn't.

Senator Emert stated that one additional advantage would be if the governor is able to appoint the first chairperson who would only serve for one year, at least the chairperson could get a head start on the organizational structure.

The Chairperson added that the board would not be so well acquainted with one another that it would even know which one would be a good chairperson.

Senator Bleeker stated that there would not be an adequate amount of time between the appointing a new board and when it would actually be functioning.

Senator Emert stated he has given consideration to the possibility that the chairman of the board should be a member of the coordinating board. The chairman shouldn't be elected at all. There is something to be said for one of those three people that serve on the coordinating board being the chair. This is only a suggestion.

The Chairperson asked if that person would be elected by the whole board or the derivative.

Senator Emert replied that there would be merit to the chairman coming from the derivative board. It would make it less territorial if the chairman of the board isn't a member of the board of public universities or the board of community colleges. The coordinating board by its name and intent is to

coordinate the entire spectrum. The governor could appoint the first time or forever, either way.

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Elected would probably be better or more fair.

The Chairperson stated that these are some of the things the committee could be thinking about before tomorrow's discussion.

Senator Downey stated the only reason to consider this is so the committee can decide what tools can be given them to get up this up and running most efficiently.

The Chairperson stated Senator Bleeker's point was well taken that there should be a period of time between the time of taking office and the time they are appointed. This will be an important time for them to organize.

Senator Kerr stated there is another issue regarding the duties of the derivative boards and the appointment of the chief executive officer. As stated in the bill, it is the coordinating board at present that would select and make recommendations to the chief executive officer. He asked if that should be under the Board of Public Universities.

Senator Emert asked staff to try to do a lineup of duties of each board, because there is confusion about what we have and what is intended. If there could be something parallel by subject matter.

The Chairman had a communication from the Board of Regents distributed (Attachment 2)

The Chairman stated she would like to get the bill out of committee tomorrow. She asked the committee to appear on time and adjourned the meeting.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE: March 15, 1999

NAME	REPRESENTING
Susan D. Bechard	KAAVTS
Christy Crenshaw	KS Board of Regents
Sheila Fehow	KACCT
Andy Jympkin	KS DE
Jan Birmingham	KS DE
Stawa Wohlford	Lt. Gov.
Joe Rossillon	ESU
Mary Carol Pometto	PSU
Harland Puddle	Puddle & associates
Jim Edwards	KCCI
Tom Bruno	Alent Assoc.
David J. Monical	Washburn
Jan Josseland	
Debra Prideaux	FPSU

SUBCOMMITTEE REPORT ON S.B. 345

March 12, 1999

**8:00 a.m.
Room 423-Statehouse**

Subcommittee Members

Senator Barbara Lawrence, Chair
Senator Christine Downey
Senator Tim Emert
Senator Dave Kerr

Other Legislators Present

Senator Audrey Langworthy
Representative Richard Reinhardt

The Subcommittee recommends the following changes to S.B. 345:

- Delete most of the references in the bill to Washburn University, particularly with regard to Washburn being under the supervision of the State Board of Regents. Instead, list Washburn, along with the independent colleges and universities, as an institution with which the Board for Higher Education Coordination would interface for purposes of a coordinated state system of higher education. This proposed change responds to a concern raised by the President of Washburn University that S.B. 345 in its present form would subject the University to a greater level of state control than presently is the case and would give the State Board of Regents authority that would compete with Washburn's own Board of Regents. One of the sponsors of the bill told the Subcommittee it was not his intention to subject Washburn to greater state control, but to bring it under the State Board of Regents for coordination purposes.
- Clarify the approval authority for vocational programs by making the State Board of Regents responsible for approving vocational courses offered by those transferred institutions under its jurisdiction (community colleges, technical colleges, and area vocational schools) and by making the State Board of Education responsible for approving vocational programs offered in high schools

*Senate Education
Attachment 1
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operated by school districts. This change would involve amending the school finance law to allow school districts to count secondary student enrollments in vocational programs offered by community colleges, technical colleges, and area vocational schools for purposes of vocational weighting. This change grew out of discussions about complications that might arise if vocational programs offered in secondary schools were under the jurisdiction of one board and all other vocational programs were under another board.

- Make the duties of the Board for Community Colleges and Vocational/Technical Education over institutions under its jurisdiction more consistent with the duties of the Board for Public Universities over its institutions by adding that the Board for Community Colleges and Vocational/Technical Education would have the authority to recommend for approval or disapproval course locations and would have the authority to initiate plans for institutional advancement. This change addresses a concern of the Kansas Association of Community College Trustees that the duties of the Board for Community Colleges and Vocational/Technical Education were not the same as those of the Board for Public Universities nor were they in all cases the same as those presently exercised by the State Board of Education.
- Add new sections to S.B. 345 that would implement performance funding for the institutions under the Board of Regents's jurisdiction, including Washburn University. Specifically, by July 1, 2001, the Board of Regents would have to identify core indicators of performance by which each institution would be measured. By July 1, 2003, and annually thereafter, the Board of Regents would review the performance of each institution with reference to its indicators and allocate performance bonuses of up to 2.5 percent of the institution's total appropriation to those institutions that had achieved excellence on their educational and institutional improvement plans. (There would be a limit set on the total amount of money that could be allocated on the basis of performance indicators.)

Discussion Point

The Subcommittee agreed to bring before the full Committee the matter of phasing out the three derivative boards after four or eight years so that at some point appointees to the Board of Regents would not be designated to serve on one of the sub-boards that are advisory to the full board. One argument for phasing out the three boards was that, after the transition period to the new system is completed, institutional relationships would have matured to the point that constituency representation on the full board no longer would be necessary. An argument against making the three boards temporary was that institutions with differing clientele and missions need assurances that, if they become part of a consolidated system of higher education, their interests and distinctiveness would be recognized on an ongoing basis.

**OBSERVATIONS OF THE KANSAS BOARD OF REGENTS
ON SENATE BILL 345
March 12, 1999**

The Board of Regents continues to be supportive of ways to improve the coordination of Kansas postsecondary education to enhance access, quality and accountability through efficient and effective utilization of resources.

The Board of Regents acknowledges that SB 345 contains the necessary elements for improved coordination:

- comprehensive statewide planning
- review and approval of institutional mission statements
- exploring opportunities for mergers and affiliations
- coordination of off-campus education
- creation of uniform statewide database
- provision for conflict resolution
- development of procedures for articulation and transfer
- development of and advocacy for a unified higher education budget

The Board of Regents and Regents institutions have expended great effort to develop core performance indicators; the Board would support the concept of performance funding as part of restructuring plan.

The Board of Regents' major concern with SB 345 relates to the effective functioning of the three derivative boards created by the bill. Among the Board's concerns are:

- The potential for overloading a derivative board of three persons with too much responsibility.
- That the same persons making up the derivative boards could not come together and function effectively as a full board.
- That a staff would be needed for each derivative board, as well as for the full board, which would further emphasize the partitioning of the full board.

*Senate Education
Attachment 2
3-15-99*

- It appears to be legislative intent that the derivative boards have no decision making authority, but only the responsibility to make recommendations to the full board. However, this is not clear from the language in the bill. For example, the bill provides that the board for higher education coordination shall resolve conflicts among and between postsecondary educational sectors and institutions. At the end of each section on the derivative boards is a subsection that charges the derivative board to exercise such other powers and perform such other functions and duties as are deemed necessary and appropriate to the fulfillment of its responsibilities. The question is, "as are deemed necessary by whom?" If the exercise of additional powers is deemed necessary by the derivative board, that implies the derivative board has authority independent of the full board. It should be reviewed as to whether such authority could be exercised in such a manner as to be in conflict with the constitutional authority of the board of regents to control the state educational institutions. The bill must make clear the intended role of the derivative boards in relation to the full board.
- The Board of Regents currently has statutory responsibility to appoint chief executive officers of the state educational institutions. If SB 345 is to provide for an advisory responsibility related to such appointments, that responsibility should reside with the derivative board for public universities and not with the board for higher education coordination.
- The Board recommends serious consideration be given to including in SB 345 a provision to sunset the three derivative boards.