

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Steve Morris at 10:30 a.m. on January 25, 2001 in Room 123-S of the Capitol.

All members were present except: All present

Committee staff present:

Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Amory Lovin, Kansas Legislative Research Department
Paul West, Kansas Legislative Research Department
Michael Corrigan, Assistant Revisor, Revisor of Statutes Office
Julie Weber, Administrative Assistant to the Chairman
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Dr. Jerry Farley, President, Washburn University
Dr. Kim Wilcox, Executive Director, Kansas Board of Regents (Written Testimony)

Others attending: See attached guest list

Chairman Morris mentioned that there will be hearings on **SB 8** and **SB 12**.

The Chairman opened the public hearing on:

SB 8 – Washburn university, operating grants, determinations

Staff briefed the Committee on the bill

Chairman Morris welcomed Dr. Jerry Farley, President, Washburn University, who spoke in support of **SB 8** (Attachment 1). Dr. Farley mentioned that he was appearing before the Committee to endorse the concepts embodied in **SB 8** and to urge favorable action, with potential amendments (found in written testimony) on the legislation. Committee questions and discussion followed. Dr. Farley noted in his testimony that Washburn University and the Kansas Board of Regents ask permission to work with the Committee's revisors to amend **SB 8** to include language to which all parties agree that will accomplish the goal. The Chairman thanked Dr. Farley for appearing before the Committee.

Written testimony was received from Dr. Kim Wilcox, Executive Director, Kansas Board of Regents, in support of **SB 8** (Attachment 2).

There being no further conferees, the Chairman closed the public hearing on **SB 8**.

The Chairman opened the public hearing on:

SB 12 – Taxation, subtraction from federal adjusted gross income of Washburn university employees retirement benefits

Staff briefed the Committee on the bill

Chairman Morris welcomed Dr. Jerry Farley, President, Washburn University, who spoke in support of **SB 12** (Attachment 3). Dr. Farley mentioned that he was present to discuss exempting from state income tax the TIAA-CREF annuity benefits received by Washburn University retirees. He noted that the proposal is embodied in **SB 12** which has been endorsed by the Kansas Board of Regents and the Legislative Educational Planning Committee. Committee questions and discussion followed. The Chairman thanked Dr. Farley for appearing before the Committee.

CONTINUATION SHEET

Written testimony was received from Dr. Kim Wilcox, Executive Director, Kansas Board of Regents, and is included in Attachment 2 under **SB 8** which also addresses **SB 12** as listed above.

The Chairman closed the public hearing on **SB 12**.

The meeting was adjourned at 11:05 a.m. The next meeting is scheduled for January 26, 2001.



WASHBURN UNIVERSITY

Office of the President

**Testimony to the
Senate Committee on Ways and Means
regarding Senate Bill 8**

by

**Jerry B. Farley, President
Washburn University
January 25, 2001**

Mr. Chairman, Members of the Committee:

We are pleased to appear before you today to endorse the concepts embodied in Senate Bill 8 and to urge your favorable action, with potential amendments, on this legislation.

The 1999 Legislature passed Senate Bill 345, the Kansas Higher Education Coordination Act. This far-reaching legislation has effected the way we control, supervise, coordinate, govern and finance all of Kansas post-secondary education. We are now in the second year of its implementation and, as is to be expected with a far-reaching and comprehensive piece of legislation, incongruous details have emerged which require your reexamination. Such is the case with the problems Senate Bill 8 is intended to address.

Senate Bill 345 provides that Washburn's current year funding shall be based upon the greater of the FTE enrollment in the two prior fiscal years. Last summer, out of discussions with the Kansas Board of Regents' staff, there emerged differing interpretations on their part and ours as to what this language was intended to mean. We took it to mean that when the Legislature appropriates funding under this formula for Washburn University, such funding would be based upon the two prior fiscal years for which the FTE enrollment is known. In the case of the immediate situation, our interpretation is that the FY 2002 appropriation would be based on the greater of the FTE enrollments in fiscal year 2000 and fiscal year 1999, as enrollments for fiscal year 2001 would not be known until near the end of the 2001 Legislative Session.

The Kansas Board of Regents' staff interpreted the current year to roll forward with each year such that funding provided for fiscal year 2002 would be based upon fiscal year 2000 enrollments, which are known, and fiscal year 2001 enrollments, which are not known. Such an interpretation would require an end-of-the-year adjustment in the State Grant with a potential turn back of funds for enrollment decline or the necessity of requesting a supplemental appropriation late in the Session should enrollments grow. We do not think that the Legislature intended to engage in annual adjustments or potential requests for supplemental appropriations in the case of Washburn's State Grant. For ten years the State Grant was appropriated and that was the amount the University received in the subsequent fiscal year.

The Kansas Board of Regents' staff, along with the University's, worked together to craft language intended to bring the provisions of SB 345 in conformance with the University's interpretation. This language was taken to the Kansas Board of Regents at its November meeting and approved in December. The Kansas Board of Regents language is attached as "Amendments to SB 345 Operating Grant Formula for Washburn University." At the same time the University was working with the Kansas Board of Regents on this proposal, it was also reviewed by the Legislative Educational Planning Committee as part of its assignment to review and monitor the implementation of Senate Bill 345. They also endorsed the University's proposal and recommended "the introduction of legislation to change the Operating Grant distribution formula so that the allocation to Washburn University is based on the higher of the FTE enrollment in the second or third fiscal year preceding the fiscal year for which the appropriation is made" ("Committee Reports to the 2001 Kansas Legislature", 9-15). Senate Bill 8 is the pre-filed bill recommended by the Legislative Educational Planning Committee to accomplish its recommendations.

Over the long run, implementation of these concepts is fiscally neutral. Fluctuations in the University's enrollment will be accounted for and adjusted in future appropriations. The University's State Grant will lag behind enrollment fluctuations but will be based, in every instance, on known enrollments. Attached is a table entitled "FY 2002 Budget Calculation of SB 345 State Aid." The first column shows the original request which the University submitted in June of 2000. The middle column indicates the University's appropriation for FY 2002 under the concepts embodied in Senate Bill 8. The third column indicates a revised request approved by the Kansas Board of Regents for FY 2002, assuming that Senate Bill 8 is not enacted by the Legislature. With the opening of the Living/Learning Center this fall, the University is anticipating a substantial increase in enrollments totaling approximately 300 full time equivalent students. Rather than approaching the Legislature with a significant supplemental request next spring during the 2002 Session, the Kansas Board of Regents and Washburn agreed that it was appropriate that the anticipated enrollment growth be taken into account. They approved this requested increase at their October meeting.

Rather than urging your endorsement of the \$2,297,561 appropriations increase if the concepts of SB 8 are not enacted, we urge this legislation be adopted and that the University receive a revised grant of \$1,584,150 for FY 2002.

On the surface, this matter is simple and all parties are in agreement as to what the outcome should be; however, we have been informed by the staff of the Division of the Budget that they do not believe the language currently embodied in Senate Bill 8 will accomplish what Washburn, the Kansas Board of Regents and the Legislative Educational Planning Committee see as the desired outcome. For that reason, we have attached the language originally recommended by Washburn and the Kansas Board of Regents and ask your permission to work with the committee's revisors to amend Senate Bill 8 to include language to which all parties agree will accomplish this goal. We ask your support for any necessary amendments and for your favorable recommendation of this legislation.

Amendments to SB 345 Operating Grant Formula for Washburn University

Proposal: Amend K.S.A. 72-6503 to clarify interpretation of “current” and “prior” year enrollment for purposes of determining the state operating grant and repeal K.S.A. 72-6505, which makes provision for adjustment of the operating grant if the university is overpaid:

(a) ~~In each fiscal year, commencing with~~ in fiscal year ~~2001~~ 2002 and each fiscal year thereafter, the university is entitled to receive an operating grant from the state general fund appropriated by the legislature in an amount to be requested ~~determined~~ by the state board. Such operating grant shall not be subject to adjustment by the state board in the fiscal year for which it is appropriated. To determine the amount it shall request, ~~t~~The state board shall:

(1) Determine the average amount of moneys from the state general fund expended per FTE lower division undergraduate student in the preceding fiscal year at the regional state educational institutions;

(2) (A) ~~in~~ for the 2001 fiscal year, compute 50% of the amount determined under (1); (B) ~~in~~ for the 2002 fiscal year, compute 55% of the amount determined under (1); (C) ~~in~~ for the 2003 fiscal year, compute 60% of the amount determined under (1); and, (D) ~~in~~ for the 2004 fiscal year and in each fiscal year thereafter, compute 65% of the amount determined under (1);

(3) multiply the amount computed under (2) by the number of FTE students of the university. The product is the amount of the operating grant the university is entitled to receive for the fiscal year.

(c) (1) For the purposes of this section, the FTE enrollment of the university shall be based on: (A) enrollment of students who are residents of the state of Kansas: and (B) the greater of the FTE enrollment in the current for fiscal years or FTE enrollment in the next preceding fiscal year at the time of the state board's request for the operating grant appropriation.

(2) As used in this section, the term regional state educational institutions means Emporia state university, Fort Hays state university and Pittsburg state university and the term lower division undergraduate student means a freshman or sophomore.

Background: The language implementing the state operating grant in 1999 SB 345 has been subject to different interpretations by Washburn University and the Kansas Board of Regents staff. The purpose of this amendment is to clarify that language to reflect what Washburn University believes was the original legislative intent. SB 345 provides that the operating grant shall be based on FTE enrollment, the larger of the current or prior fiscal year. Board staff have interpreted that to mean the enrollment of the fiscal year in which the operating grant is received, or the prior fiscal year. Washburn has interpreted it to mean the enrollment in the fiscal year in which the Board makes its determination of the request for the operating grant, or the prior fiscal year.

Under the Board staff interpretation, the operating grant is subject to adjustment at the end of the fiscal year in which it is received to reflect changes in enrollment between that fiscal year and the preceding fiscal year. Under the Washburn interpretation, the request for appropriation is based upon known enrollments, and subsequent year enrollment changes are accounted for in future requests. Assuming the legislature funds the request, the appropriation would be distributed to

Washburn without adjustment during the fiscal year. This methodology would be consistent with Washburn's ten-year history of receiving an operating grant which was not subject to adjustment by the Board of Regents. If the these amendments were adopted, the Board's FY 2002 request for the Washburn operating grant could be reduced from \$11.6 million to \$10.9 million.

If the above amendments are adopted, K.S.A. 72-6505 should be repealed. That section makes provision for adjusting the operating grant if the university is paid more than it is entitled to receive, and such provisions would conflict with the amended language above.

WASHBURN UNIVERSITY
FY 2002 BUDGET - CALCULATION OF SB 345 STATE AID

| | <u>Original Request</u> | <u>Based on WU Interpretation Greater of Prior Two FY Enrollments</u> | <u>Based on KBoR Staff Interpretation Greater of Projected FY 01 & FY 02 Enrollments</u> |
|---|-------------------------|---|--|
| Step 1: Record the Cost per FTE to use for FY 02 <i>Source: Marvin Burris, KBoR Office</i> | \$ 4,427 | \$ 4,427 | \$ 4,427 |
| Step 2: WU Resident FTE | <u>4,351</u> | <u>4,458</u> | <u>4,751</u> |
| Step 3: Determine gross Cost per FTE for FY 02 | <u>\$19,261,877</u> | <u>\$19,735,566</u> | <u>\$21,032,677</u> |
| Step 4: Multiply FY 02 cost by 55% | \$10,594,032 | \$10,854,561 | \$11,567,972 |
| Step 5: Compare with FY 01 Budget | <u>\$ 9,270,411</u> | <u>\$ 9,270,411</u> | <u>\$ 9,270,411</u> |
| ESTIMATED INCREASE IN STATE AID FY 02 | <u>\$ 1,323,621</u> | <u>\$ 1,584,150</u> | <u>\$ 2,297,561</u> |



KANSAS BOARD OF REGENTS

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MEMORANDUM

TO: Members, Senate Ways and Means Committee

FROM: Kim Wilcox *KW*
Executive Director

RE: SENATE BILLS 8 AND 12

DATE: January 25, 2001

On behalf of the Kansas Board of Regents, I want to express support for the passage of Senate Bills 8 and 12.

Senate Bill 8

Senate Bill 8 represents the collaboration of Washburn and KBOR staff to render the Washburn funding formula more definitive in its determination of Washburn's annual state operating grant.

The Washburn funding formula in SB 345 is FTE enrollment driven and is based on the higher of FTE enrollment in the current or prior fiscal year. As written in statute, it is a formula for an entitlement that must be determined in "real time," i.e., the operating grant to be paid in a particular fiscal year must be determined based on that fiscal year's FTE enrollment, or the prior year's enrollment, whichever is larger. Obviously, that cannot be determined until late in the current fiscal year, at which time the operating grant may be subject to a year-end adjustment.

The proposed amendments define the fiscal year enrollment to be used in determining the operating grant in such a way that the operating grant would not be subject to adjustment in the fiscal year because of enrollment change. The amended formula would use the larger of the two fiscal year enrollments known at the time the request is made by the KBOR. Assuming the legislature funded the request, the appropriation would be distributed to Washburn without adjustment by the Board of Regents during the fiscal year. This would give Washburn the benefit of knowing and planning for the full amount of its operating grant prior to the beginning of the fiscal year. For Washburn, this approach would be consistent with its ten-year history prior to SB 345 of receiving an operating grant which was not subject to adjustment by the Board of Regents.

*Senate Ways and Means
1-25-01
Attachment 2*

Senate Bill 12

The Board supports Washburn University's recommended statutory amendment to exempt from state income tax, retirement benefits paid to Washburn University retirees. Washburn University employees are covered under the various retirement plans of the Teachers Insurance Annuity Association-College Retirement Equities Fund (TIAA-CREF). A similar program is offered for faculty and unclassified staff at the Regents' institutions. As is the case with faculty at the Regents' institutions, contributions to TIAA-CREF under this plan are tax exempt up to the limits of federal law. Unlike the benefits received by Regents' retirees, pension payments for Washburn University retirees are subject to state income tax. These proposed amendment would eliminate this inequity and have Washburn retirees treated equitably with faculty retirees from the Regents' institutions and city, county and school district employees' KPERS benefits, which are excluded from Kansas income taxation by K.S.A. 1999 Supp. 74-4923.

Cc: David Monical
Dick Carter
Joe Birmingham



WASHBURN UNIVERSITY

Office of the President

**Testimony to the
Senate Committee on Ways and Means
regarding Taxation of Annuity Benefits of Washburn Retirees
(Senate Bill 12)**

**by
Jerry B. Farley, President
Washburn University
January 25, 2001**

Mr. Chairman, Members of the Committee:

It is a pleasure to appear before you today to discuss exempting from state income tax the TIAA-CREF annuity benefits received by Washburn University retirees. The proposal is embodied in SB 12 which has been endorsed by the Kansas Board of Regents and the Legislative Educational Planning Committee.

The issue before you is not new and it is fundamentally an issue of fairness. The pension benefits of virtually every former public employee in the state of Kansas are exempt from state income tax (with retirees from Washburn University being the exception). As you are aware, Washburn has been a public institution since 1941 and has been receiving state support since 1961. While we are not a state agency, we are, and have been for decades, a public employer under federal and state law.

The state has chosen, for a variety of reasons, to exempt the pension benefits of former public employees from state income tax. This exemption, although requested, has not been granted to Washburn University retirees. We feel that it is a matter of equity to extend a state policy, which appears to be designed for the benefit of retired employees of public entities, including cities, counties, school districts, community colleges, the state and Regents' institutions, to the pensions of those employees at Washburn University.

The retirement program for Washburn employees is managed by the Teachers Insurance Annuity Association-College Retirement Equities Fund (TIAA-CREF), the same pension option for unclassified employees at the state Regents' universities. This is a national defined contribution plan for individuals of non-profit organizations, primarily colleges and universities.

At Washburn, all employees are covered under TIAA-CREF. As a defined contribution plan, future annuities for retirees will depend upon contributions made to their accounts on the part of the University and themselves as individuals. Please note that the plan at Washburn includes all University employees, including those who, if employed by the state, would be considered classified employees included in KPERS. In our case, our employees are not eligible to participate in KPERS. Consequently, all employees, classified and unclassified, participate in TIAA.

We ask that you treat the retirees of Washburn in a manner comparable to the retirees of the other universities and community colleges in Kansas. We hope you view this as a matter of fairness and equity, and ask you to support SB 12. Thank you for your consideration.

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