

MINUTES OF THE HOUSE HIGHER EDUCATION COMMITTEE

The meeting was called to order by Chairman Tom Sloan at 3:30 P.M. on February 14, 2005 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Mary Galligan, Kansas Legislative Research Department
Deb Hollon, Kansas Legislative Research Department
Art Griggs, Office of the Revisor
Linda Reed, Committee Secretary

Conferees appearing before the committee:

Major Colleen Wright, Military
Meghann O'Harrar, K-State
Mary Pruitt, General Counsel, Kansas Board of Regents

Others attending:

See attached list.

The meeting was called to order by Chairman Sloan. The Chairman directed the Committee's attention to the fiscal note concerning **HB 2234** regarding resident fees at state institutions. (Attachment 1)

The Chairman opened the hearing on **HB 2234, Concerning tuition rates at state educational institutions.**

Representative Carlin indicated to the committee that this bill amends the resident tuition requirements for military personnel in Kansas.

Art Griggs, Office of the Revisor, distributed to the committee the balloon for **HB 2234**. Mr. Griggs stated that this is a straight forward policy issue as he set out additions and deletions from current statutes provided by the bill. (Attachment 2)

With no questions for Mr. Griggs, the Chairman welcomed Major Colleen Wright, the Garrison Operations Officer at Fort Riley to the Committee. Major Wright spoke on behalf of Fort Riley and all uniformed service members stationed in Kansas in support of **HB 2234**. Major Wright stated that **HB 2234** makes sense. It alleviates those times where a disparity exists because of the timing of one's assignment to Kansas relative to their children's enrollment in college. (Attachment 3)

The Chairman welcomed Ms. Meghann O'Harrar, who testified as a proponent for **HB 2234**. Ms. O'Harrar testified to the committee that prior to her divorce, she was married to an individual in the military. At that time she was entitled to instate tuition at Kansas State University. Kansas State University informed Ms. O'Harrar with the change in her martial status, she was no longer classified as an instate student and would have to pay \$3,500 extra a semester for outstate tuition.

Ms. O'Harrar indicated that the State of Kansas, like any other state, wants to have productive taxpayers that contribute to their community. Ms. O'Harrar suggested that it makes sense to give military members, their dependents instate tuition rates, rather than having them leave the state. Ms. O'Harrar stated she knows of military personnel who won't come back to Kansas because they don't qualify for instate tuition rates. Ms. O'Harrar asked that Kansas give them a break when it comes to higher education. (Attachment 4)

Mary Pruitt, General Counsel for the Kansas Board of Regents gave testimony to the committee in support of expanding eligibility for resident rates to current and former service men and women and their spouses and dependents, but stated that the Board has reservations about the form of this bill. Ms. Pruitt stated concerns with the interpretation of the language "that grants resident rates to any person who has ever been assigned to an active duty station in Kansas. Ms. Pruitt suggested replacing the word "active" with "permanent" assignment. Mary Pruitt stated the Board also has reservations about using voter and vehicle registration as indications of adequate connection to the state to qualify for resident rates.

CONTINUATION SHEET

Minutes of the House Higher Education Committee at 3:30 P.M. on February 14, 2005 in Room 231-N of the Capitol.

Ms. Pruitt summarized her testimony by stating that while the Board supports the intent of the bill, it anticipates problems in the administration of the bill. The Board urges modification of the bill. (Attachment 5)

With no further testimony, Chairman Sloan opened the floor to questions. Representatives Storm, Carlin, and Otto asked questions of Major Wright regarding home of record and the differences between a Kansas resident joining the military and somebody in the military coming to Kansas.

Representative Carlin commented that it is not the person but the dependent who has to qualify for instate tuition and that each state is different on its eligibility.

Representative Krehbiel commented on temporary and permanent change of station language used in the bill.

Ms. Pruitt acknowledged that residency for tuition purposes is determined by the state you are in.

Representative Krehbiel and Representative Otto agreed that Ms. O'Harrar was caught in a situation where her home of record was Kansas but her ex-husband's was Texas. Ms. O'Harrar stated that the discrepancy arose from their joint income tax return.

The Chairman appointed a Sub-Committee comprised of Representative Krehbiel, Representative Johnson, and Representative Carlin to work with Mary Galligan, Deb Hollon, Art Griggs, Mary Pruitt, Major Wright, and Meghann O'Harrar to study new language for **HB 2234** regarding residency requirements for tuition purposes.

Chairman Sloan stated that **HB 2234** would be worked Wednesday, February 16, 2005, with staff making presentation.

Chairman Sloan adjourned the meeting at 4:15 p.m.

The next meeting is scheduled for Wednesday, February 16, 2005 at 3:30 p.m. at RM 231-N.



KANSAS

DIVISION OF THE BUDGET
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

February 9, 2005

The Honorable Tom Sloan, Chairperson
House Committee on Higher Education
Statehouse, Room 446-N
Topeka, Kansas 66612

Dear Representative Sloan:

SUBJECT: Fiscal Note for HB 2234 by House Committee on Higher Education

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2234 is respectfully submitted to your committee.

HB 2234 would require the Board of Regents to authorize the following classes of persons to pay resident fees at state educational institutions under the control and supervision of the Board of Regents:

1. Any person who has ever been assigned to an active military duty station in Kansas and who is living in Kansas at the time of enrollment, is a Kansas registered voter, and has registered a personal vehicle in the state. The individual's dependents and spouse would also have resident status.
2. Any person who has retired from military service or has been honorably discharged, is a registered Kansas voter, and has registered a personal vehicle in the state.
3. Any spouse or dependent children living in Kansas or a military person who is reassigned from Kansas to another duty station.

The bill would also provide that as long as a spouse or dependent remains continuously enrolled, he or she would not lose their status because of a change in marital status or the death of the spouse.

The Honorable Tom Sloan, Chairperson

February 9, 2005

Page 2—2234

The Board of Regents notes that the bill would expand the availability of residency status at educational institutions. Therefore, the institutions would expect to see an increase in waivers for non-resident tuition. In FY 2004, the state universities reported waivers of non-resident tuition for military personnel, spouses, and dependents that totaled 334 waivers and \$2.0 million. However, no information is available upon which to base an accurate estimate of the fiscal effect of the additional waivers.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Marvin Burris, Board of Regents

HOUSE BILL No. 2234

By Committee on Higher Education

2-1

9 AN ACT relating to state educational institutions; concerning tuition;
10 amending K.S.A. 2004 Supp. 76-729 and repealing the existing section.

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2004 Supp. 76-729 is hereby amended to read as
13 follows: 76-729. (a) Persons enrolling at the state educational institutions
14 under the control and supervision of the state board of regents who, if
15 such persons are adults, have been domiciliary residents of the state of
16 Kansas or, if such persons are minors, whose parents have been domicil-
17 iary residents of the state of Kansas for at least 12 months prior to en-
18 rollment for any term or session at a state educational institution are
19 residents for fee purposes. A person who has been a resident of the state
20 of Kansas for fee purposes and who leaves the state of Kansas to become
21 a resident of another state or country shall retain status as a resident of
22 the state of Kansas for fee purposes if the person returns to domiciliary
23 residency in the state of Kansas within 12 months of departure. All other
24 persons are nonresidents of the state of Kansas for fee purposes.

25 (b) The state board of regents may authorize *by rule and regulation*
26 the following persons, or any class or classes thereof, and their spouses
27 and dependents to pay an amount equal to resident fees:

- 28 (1) Persons who are employees of a state educational institution;
29 (2) persons who are in military service;
30 (3) ~~persons who are domiciliary residents of the state, who were in~~
31 ~~active military service prior to becoming domiciliary residents of the state,~~
32 ~~who were present in the state for a period of not less than two years~~
33 ~~during their tenure in active military service, whose domiciliary residence~~
34 ~~was established in the state within 30 days of discharge or retirement~~
35 ~~from active military service under honorable conditions, but whose dom-~~
36 ~~iciliary residence was not timely enough established to meet the residence~~
37 ~~duration requirement of subsection (a);~~
38 ~~(4) persons having special domestic relations circumstances;~~
39 (4) persons who have lost their resident status within six months
40 of enrollment;
41 (5) persons who are not domiciliary residents of the state, who
42 have graduated from a high school accredited by the state board of ed-
43

ucation within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission to a state educational institution pursuant to K.S.A. 72-116, and amendments thereto;

(6) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection; and

~~(8) persons who have graduated from a high school accredited by the state board of education within six months of enrollment and who, at the time of graduation from such a high school or while enrolled and in attendance at such a high school prior to graduation therefrom, were dependents of a person in military service within the state, if the person, whose dependent is eligible for authorization to pay an amount equal to resident fees under this provision, does not establish domiciliary residence in the state upon retirement from military service, eligibility of the dependent for authorization to pay an amount equal to resident fees shall lapse.~~

and has either been honorably discharged or is still in such military service

(c) The state board of regents shall authorize the following classes of persons to pay an amount equal to resident fees:

(1) Any person who has ever been assigned to an active military duty station in Kansas and who is living in Kansas at the time of enrollment, is a Kansas registered voter and has registered any personal motor vehicles in Kansas, and such person's dependents and spouse;

(2) any person who has retired from military service or has been honorably discharged from military service, is a Kansas registered voter and has registered any personal motor vehicles in Kansas; and

(3) any spouse or dependent children of a military person who is reassigned from Kansas to another duty station so long as such spouse or dependent children continue to reside in Kansas.

(d) So long as a person remains continuously enrolled, exclusive of summer sessions, a person who qualifies to pay resident fees by virtue of being a spouse or dependent of a military person shall not lose such status because of a change in marital status or the death of a spouse.

(e) The provisions of subsections (c) and (d) shall be controlling over any conflicting rules and regulations.

(f) As used in this section:

(1) "Parents" means and includes natural parents, adoptive parents,

United States

has been assigned to an active United States military duty station in Kansas, is currently living in Kansas,

, and such person's dependents and spouse

United States

stepparents, guardians and custodians.

(2) "Guardian" has the meaning ascribed thereto by K.S.A. 2004 Supp. 59-3051, and amendments thereto.

(3) "Custodian" means a person, agency or association granted legal custody of a minor under the Kansas code for care of children.

(4) "Domiciliary resident" means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

(5) "Full-time employment" means employment requiring at least 1,500 hours of work per year.

Sec. 2. K.S.A. 2004 Supp. 76-729 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

TESTIMONY ON BEHALF OF HB 2234
Amending KSA 2004 Supp. 76-729
From Major Colleen Wright
Garrison Operations Officer, Fort Riley, Kansas

Honorable Chairman Sloan and Honorable Representatives of the Higher Education Committee, thank you for allowing me to speak today about House Bill 2234 and its positive, welcome affect on those of us who are serving our nation. I am Major Colleen Wright, the Garrison Operations Officer. Although I represent Fort Riley, I am speaking on behalf of all uniformed service members stationed in Kansas.

We all know that right now is an especially difficult time to be serving our nation in the Armed Forces. Our military and their family members confront some tremendous challenges. Although we in the military accept that our chosen profession comes with its own set of difficulties and frustrations, we rely on our government representatives to recognize that and act to provide us some measure of protection from conditions outside of our control. We strongly support any actions that take care of our soldiers and families and believe that this bill is one such action.

Members of the military often have very little control over where we are located when it is time for our children or spouses to enroll in college. When we do have control over our assignments at that time, we actively pursue assignment to states that rightly grant in-state tuition to military family members. While Kansas currently grants residency status to military and their families who are assigned to duty in Kansas, that status should continue even for those who are subsequently assigned to a different state, or those whose marital status changes while assigned here. Imagine how tragic and nonsensical it would be to be a spouse whose husband or wife were to die while serving our country and who was working towards a degree while their spouse was deployed to lose their residency status at such a sorrowful time.

HB 2234 makes sense. It will alleviate those times where a disparity exists because of the timing of one's assignment to Kansas relative to their children's enrollment in college. For example, a former neighbor of mine currently has two children enrolled in Kansas State. Both were paying in-state tuition until the soldier PCSd to another state. Now, one of them pays in-state tuition, since she graduated from a Kansas High School; one pays out of state, because their family moved here the summer after she graduated from high school. This inconsistency is very frustrating and costly to the family, to say the least.

Thank you for your consideration of this important legislation. It is vital that we work to take care of our military, especially at this time when they are taking care of us.

Honorable Chairman and Members of the Committee

As a military member or part of a military family, you are always looking for a state you want to settle down in. You look at what kind of benefits states offer to retired or honorably discharged members. Some states don't offer many benefits so you decide to move to another state that does. When a university informs you and your dependents you are going to pay out of state tuition because you didn't bother to become a resident within thirty days of discharging from the military or your children who made the decision to stay in that state have to pay the out of state tuition rate even though they were previously attending at that rate, it makes your opinion of a state and the university go from good to bad. It makes you feel very unwelcome in a state you consider your home.

When Kansas State University first told me I was going to have to pay the out of state tuition rate, I began compiling a mental list of what I was going to have to do to pay my bills. Because I am a nontraditional college student, I didn't have the luxury of living in the dorms, drive the car I still had from high school, or just work 15 hours a week so I could have extra spending cash around. I work 30 hours a week, the most a student is allowed to work in the department of facilities at KSU so I can afford some of my bills. The major part of my income was and still is the money left over from my financial aid. When KSU said they were going to charge ~~me~~ 3500. extra a semester, I watched my rent money, car payment, and car insurance payment disappear. I make enough money to pay for utilities and groceries, but what good is that when you can't afford somewhere to live.

I came to the realization that dropping out of college again, getting a full-time job somewhere in town, and working there until someday I could afford to go back to school was my only option. I didn't want to do that, but how else could I afford to live? I felt that everything I was trying to accomplish with my life was a waste of time at that point. I tried to come up with other options, some I didn't particularly like the sound of. I could have just stayed with my husband. Granted, if I would have stayed with him, I would be in a worse situation, but then I would have been able to afford school. I thought about working the job I had and getting a night job and another job on the weekends. As long as the jobs weren't too stressful, I thought I might be able to handle it, anything to stay in school.

I came up with several ideas until Matt Moline contacted me and started me on my crusade for in state tuition. After the Topeka-Capitol Journal and the Manhattan Mercury published my story I had people all around me cheering me on, but also informing me that it was a losing battle. It's impossible to get your status changed from nonresident to resident at KSU unless you fit exactly in the little box they have designed. The message I got from faculty, staff, and students was, good luck, but don't bet on it. I think some one actually told me it would be in my best interest to not put money on it.

All of this, added to the glooming reality of finals week, and unpaid bills made me seriously think I should move back to my parents. I wonder how many students have had to do that? I also wonder how many prospective students coming here with their military parents think about attending Kansas universities and decide not to because when their parents leave their status changes to nonresident and they realize they can't afford that.

It's almost like the state of Kansas is shooting itself in the foot. Universities want students to come to their college; it means more money for them. The state of Kansas, like any other state, wants to have productive citizens, who will pay taxes, and contribute to their community. Wouldn't it make more sense to give military members, their dependents, and quite possibly their x-dependents the in state tuition rate and run a 50/50 chance of them staying in Kansas and becoming a productive citizen, than have them leave the state never to return or possibly stay in the state and hate it. Or better yet, in my situation and others like mine, I could have very well applied for welfare and other related services. Not only does that make me an unproductive citizen, but a drain on the state and economy. How many women and men who divorced a military member and decided to stay in Kansas didn't go to college or dropped out of college because they couldn't afford to go? I can guarantee if I had a child I would have given up the minute they said no to my application for instate tuition, dropped out after the semester was up, and went to work full-time doing whatever I could to make ends meet. I might have won my battle, and I know of one other woman who went through the same thing I did. After that, I have heard nothing but stories about the people who didn't win but would have fallen under this new bill's rules that would have protected them. I also know of people that stay in unhealthy relationships because they want to finish college and their home state no longer considers them a resident. I know military personnel who won't come back to Kansas because they don't qualify for the instate tuition rate. Military families go through enough, especially in light of what is going on in the world now. The least Kansas could do is give them a break when it comes to seeking a higher education.



Meghan O'Hara
student



KANSAS BOARD OF REGENTS

1000 SW JACKSON • SUITE 520 • TOPEKA, KS 66612-1368

TELEPHONE – 785-296-3421
FAX – 785-296-0983
www.kansasregents.org

Testimony regarding HB 2234 House Higher Education Committee

February 14, 2005

Mary Prewitt
General Counsel
Kansas Board of Regents

Good afternoon Chairman Sloan and members of the Committee. My name is Mary Prewitt and I am the General Counsel for the Kansas Board of Regents. I am pleased to provide this testimony regarding HB 2234.

House Bill 2234 makes changes to the statutes determining residency for tuition purposes at the six state universities. The primary effect of the proposed amendments would be to extend the privilege of paying resident rates to more current and former members of the armed services and their spouses and dependents than the current law allows. In doing so, the bill would rectify some perceived inadequacies in the current statutory scheme.

Under the current law, military service persons and their spouses and dependents are entitled to resident rates as long as the military member is stationed in Kansas or assigned overseas from a duty station in Kansas. If the military member is reassigned to a duty station in another state, dependents who graduate from Kansas high schools are allowed to continue at resident rates as long as they enroll at the university within six months of their high school graduation. Dependents who are not Kansas high school graduates, however, lose eligibility for resident rates. In one recent case, this resulted in a military service person who had one son who had never attended college in Kansas who was eligible for resident rates and another son who had attended KSU for two years at resident rates but who then lost eligibility for resident rates. This bill would allow both sons to attend at resident rates so long as both of them continued to reside in Kansas.

The bill also expands the number of discharged and retired military service persons who are entitled to resident rates. Currently, a discharged or retired service person must have been present in Kansas during their active duty for at least two years and must have established a residence in the state within 30 days of their honorable discharge or retirement. Under the provisions of this bill, any retired or honorably discharged member of the military, regardless of whether they were ever stationed in Kansas, will be eligible for resident rates as long as they are registered to vote in Kansas and have at least one vehicle registered in Kansas.

Finally, the bill extends eligibility for resident rates to those who, having qualified by virtue of being a spouse or dependent of a military service person, have lost that status through death or

House Higher Education Committee
2/14/05
Attachment 5

Regents Testimony regarding HB 2234
House Higher Education Committee
February 14, 2005
Page 2

divorce. This provision would prevent the problem that this Committee recently discussed in which a KSU student was denied continued eligibility for resident rates when she divorced her military spouse.

The Board of Regents supports the expanded eligibility for resident rates to current and former service men and women and their spouses and dependents. Those who have served their country through military service deserve special consideration at our state supported institutions. That said, the Board does have some reservations about the form of this bill.

First, the registrars who will be charged with applying the language of this bill anticipate some difficulty in interpreting the language in subsection (c)(1), [page 2, line 26-27] that grants resident rates to any person who has "ever been assigned to an active duty station in Kansas." It simply isn't clear at this point what documentation might be available that will allow the registrars to distinguish between those who have and those who have not been assigned to an active duty station in Kansas. Moreover, our information indicates that this language would encompass individuals who spent as little as a few weeks in Kansas during their military career. Replacing the word "active" with "permanent" would at least limit the provision to those whose assignment was of sufficient length that their family was allowed to accompany them to the post.

Second, we have reservations about using voter and vehicle registration as indications of an adequate connection to the state to qualify for resident rates. In fact, currently, the Board has specified through regulation that neither is sufficient to establish residency for regular students since both are very easy to obtain and do not, therefore, indicate any continuing commitment to the state. The Board has established this rule in order to reserve resident privileges for those whose tax dollars have and will continue to support the state institutions. It will pose difficulties for those administering the bill that such registrations are adequate for some but insufficient for others.

Finally, we suggest that the military service that qualifies the individual for resident rates should be limited to service in the military of the United States.

In summary, while the Board supports the intent of the bill before you, it anticipates some problems in the administration of the bill. We urge you to modify some aspects of the bill to address those problems, and we would be happy to work with the committee or staff to make those modifications.

Thank you for the opportunity to comment. I will be happy to answer any questions.