



February 9, 2016

To: Chairman Highland and Members of the House Education Committee

Support of HB2531

Good afternoon and thank you Chair Highland and House Education Committee members. Today I stand before you in support of HB2531, which is the repeal of continuing contract for Kansas community college instructors so that those decisions of process can best be made at the local community college. The primary purpose of HB2531 is to eliminate continuing contracts for community college faculty and allow for local negotiations and local decisions.

My name is Herbert J. Swender serving in my 17th year as a community college president in two states. My home state is Kansas, in which I have served for the past 5 years as President of Garden City Community College, and previously as a president in the Texas community college. As an instructor in Kansas I did receive essentially a lifetime contract to teach at Allen County Community College, Iola, Kansas in the mid 1980's. The Texas system operates effectively without state mandated instructor tenure. Based on my experience and opinion, outside of funding, this topic is the single greatest challenges facing Kansas community colleges, because it restricts the college's ability to offer the best education underpinned with accountability.

House Bill 2531 repeals Kansas Statutes 72-5436 through 72-5446 which currently requires community colleges to provide a state mandated continuing contracts for faculty who have taught for three (3) years and have been offered a contract for the 4th year. In circumstances where a faculty member has already been given that status with certain Kansas post-secondary institutions the total number of years before a continuing contract ensues is shorter.

The origin of these statutes in Kansas began in 1974 with the 65th Legislature. As an example of educational change over time in Kansas is the fact that in the late 60's and early 70's men in education, who were head of household were paid more than women who served in public education in Kansas. My mother Dr. Lesta Swender, Chanute, Kansas, a lifetime educator who actually taught for 21 years at a Kansas community college and served on a board of education for 12 years can attest to that fact. I believe that it is time to change our thinking and support HB2531 for the following reasons:

1. The current system can encourage complacency. Once a community college faculty member receives the fourth year contract, there may be little incentive to excel in the teaching craft. This can be challenging for the community college administration. If an instructor is ineffective, it takes considerable costly resources to remove the instructor and the burden of proof is daunting at minimum. The threat of litigation when removing an instructor is often enough to discontinue the effort and learn to live with the ineffective instructor which, in effect, diminishes the institution's ability to provide a quality education. Essentially the current law is litigious. It takes away local control regarding personnel and places it in the hands of hearing officers or judges.

2. This state mandate is an unfunded mandate. At GCCC we receive 11-15% of our revenue from the state of Kansas, yet salaries and benefits can make up to 75-80% of the budget.
3. Why should a 4th year instructor have more standing than a 3rd year instructor?
4. During an institutional reduction in force, under current statute and possibly dependent upon a negotiated agreement, a low performing instructor with a continuing contract must be kept even though a new instructor may have more total years of experience in education, higher credentials, and possess a demonstrated passion for student success and accountability.
5. Employees, including instructors are already protected under state and federal laws against wrongful termination due to discrimination.

Let's allow colleges and their teachers to work out creative solutions that serve the students, teachers, and colleges. Now more than ever, community colleges have to be able to respond and adjust quickly to changing economic and business needs.

An argument that will be sounded is that there will be unfair non-renewals of faculty, not supported by justifiable reasons. That same argument was raised when due process was eliminated for K-12 in the 86th Legislature, two years ago; that simply has not proven to be true. I personally have not heard of one single case or challenge where a public school teacher has been unfairly non-renewed. With both parties putting students first, good solutions will be created to better serve our communities.

Today's bill is not about free-speech in the classroom or academic freedom; it is about a lifetime continuing contract to one segment of education—instructors.

Community college instructors in Kansas should not be granted a lifetime contract merely because they taught for a short number of consecutive years. Community college instructors should be held to the same standards of employment as at-will employees and those elected to office.

During our new era of maximizing limited finite resources and demanding educational accountability we need the flexibility at the local level to make these decisions together and the passage of HB2531 will allow us to do this.

The statute enacted in 1974, over 40 years ago, today impedes the ability of community colleges governing boards and administrations to effectively lead institutions. Instructors, like all individuals serving the educational process must be retained because of performance, not longevity. There is no correlation between longevity and an effective educator.

An anonymous author once wrote, "We may not know what the future holds, but we know who holds the future" and it's legislative leaders like you. Thank you for the opportunity to address this very important topic.

Respectfully submitted by Herbert J. Swender, President



Garden City Community College