

MINUTES OF THE HOUSE HIGHER EDUCATION COMMITTEE

The meeting was called to order by Chairman Terrie Huntington at 1:30 p.m. on February 5, 2009, in Room 786 of the Docking State Office Building.

All members were present.

Committee staff present:

Renae Jefferies, Office of the Revisor of Statutes  
Mary Galligan, Kansas Legislative Research Department  
Kay Scarlett, Committee Assistant

Conferees appearing before the committee:

Jerry Boettcher, Member, Kansas Board of Regents  
Theresa Marcel Bush, Associate General Counsel, Kansas Board of Regents

Others attending:

See attached list.

As there were no corrections or additions, the minutes of January 13, 14, 20, 21 and 22 were approved as presented.

**Hearing on - HB 2004 - Regents institutions; participation in mandatory retirement plans, conditions**

Chairman Huntington opened the hearing on **HB 2004**. Renae Jefferies, Office of the Revisor of Statutes, explained that this bill on pages 3 and 4 amends state statutes to remove the option of a participant in the retirement plan of the State Board of Regents who takes a leave of absence and accepts a position in the executive branch of government from continuing to participate in the State Board of Regents' retirement plan. The fiscal note reports no immediate fiscal effect, but indicates that in future years universities could realize a small savings when an employee takes a leave of absence. (Attachment 1)

Jerry Boettcher, Member, Kansas Board of Regents, appeared in support of **HB 2004**. He said this change was necessary to ensure compliance with federal 403(b) regulations and to protect the plan's tax exempt status. He noted that this would not impact any current employees.

Theresa Marcel Bush, Associate General Counsel, Kansas Board of Regents, testified in support of **HB 2004** explaining that the KBOR retirement plan is subject to a section of the federal tax code that specifically applies to retirement plans of educational institutions, section 403(b). Stating that compliance with the federal tax code and regulations is imperative in order to qualify for and retain the KBOR retirement plan's tax exempt status. New 403(b) regulations went into effect on January 1, 2009. She explained that they have been informed by KBOR's retirement plan consultants that the arrangement allowed in statute violates the new IRS rules for 403(b) retirement plans. This is based upon the part of the federal tax law that requires persons participating in such retirement plans to in fact be providing services to the educational institution or system. Thus to protect the KBOR Mandatory Retirement Plan's tax status, she asked that **HB 2004** be passed. (Attachment 2)

There being no other conferees, the hearing on **HB 2004** was closed.

Mr. Boettcher asked that the committee give careful consideration to passage of **HB 2007** to allow state universities, with the Board of Regents' approval, to waive partial tuition for both undergraduate and graduate nonresident students. This bill was heard in committee on February 3. He referred the committee to the Legislative Post Audit Report: *Postsecondary Educational Institutions: Reviewing Tuition Rates Being Charged to Non-Resident Students in Kansas*, December 2006. The report is available from the Legislative Division of Post Audit or on its Website: [www.kslegislature.org/postaudit](http://www.kslegislature.org/postaudit)

The meeting adjourned at 2:15 p.m. The next meeting of the House Higher Education Committee is scheduled for February 6, 2009.