



## KANSAS BOARD OF REGENTS

### HOUSE EDUCATION COMMITTEE March 10, 2011

#### *Testimony In Opposition To HCR 5018*

#### **Regent Gary Sherrer, Chairman**

Good morning Chairman Aurand and members of the Committee. I am here on behalf of the Kansas Board of Regents to testify in opposition to House Concurrent Resolution (HCR) 5018, a proposed state constitutional amendment that would abolish the Kansas Board of Regents and the Kansas State Board of Education and place public education under the control of a Governor-appointed secretary of education while also transferring certain powers, such as the setting of state university tuition, to the Legislature.

As a former high school debate coach, I learned long ago that the burden of proof always lies with the affirmative team. The responsibility of the affirmative team is to identify a problem, provide an explanation of the problem, then propose a plan to solve the problem. In this case, the proponents of HCR 5018 represent the affirmative and the burden of proof lies with them. The proponents have presented a plan, but what exactly does the plan address? While problems associated with the status quo have yet to be identified and articulated, please allow me to outline just a few of the many reasons to oppose this unnecessary proposal.

In terms of higher education governance, each of the 50 states, over time, have developed distinct governing and coordinating structures that reflect the unique histories, political dynamics, and socioeconomic needs of particular regions. No two state governance structures are exactly the same, and wide variety exists even among our neighboring states. However, in looking at all 50 states, there is one constant similarity that exists in EVERY state. That is the fact that NO state possesses the type of governance structure proposed in HCR 5018. Such a consolidation of power, under one person, is startling. Placing our public colleges and universities under the direct influence of a partisan cabinet secretary and the Governor is a recipe for disaster. I'm a firm believer in the notion that you should know where you've been before you decide where you're going. Kansas experimented with this type of governance structure once before and the results were less than desirable.

Prior to 1925, the state universities were controlled by a 4-member Board of Administration, which included the Governor and three salaried members who were appointed by the Governor, who could all be from the same political party. At the time, Kansas and North Dakota were the only two states in the nation possessing governance structures so closely tied to politics, and both

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states had earned a national reputation for their “dangerous” governing structures. According to a 1964 report entitled “The Hectic Birth of the Board of Regents,” the Board of Administration was “too much permeated with politics – including appointive pay-offs for loyal campaign workers and punishment for persons on the state payroll with the temerity to vote against candidates of the political party to which the man elected Governor belonged.”

The current nine-member Board of Regents was created in 1925 in order to protect the state universities from the direct political control of the Governor. The Board of Regents was specifically created as a response to the political abuses that transpired under the Board of Administration during the Governor Jonathan Davis (D-Bronson; one term: 1923-1925) administration. In 1924, Governor Davis, who had an impressive record of meddling directly in university affairs, fired the University of Kansas Chancellor for political reasons and ignited a firestorm of public outcry. “The Hectic Birth” noted that: “After the Chancellor’s dismissal, letters, telegrams, and telephone calls of protest came pouring in . . . One petition had 3,000 signatures. Joint letters or petitions came in from 101 Kansas communities. Well known educators from all over the country sent expressions of dismay and anger. All these piled up by the basketsful in the Governor-elect’s (Paulen) office.”

The Board of Administration’s actions and the glaring need to distance higher education governance from direct political control was front page news across the state. Examples include:

*Leavenworth Times:*

“In all the years we have known Kansas – and they are not a few – we have never known her people more stirred up than by the attempt of Gov. Davis and his Board of Administration to remove the head of the state university. In the end we have faith to believe that this attempt will result in good. It has shown the people of Kansas the danger of having our educational institutions so directly under the control of politicians. Our educational institutions should be taken from under the control of any political board (from “The Hectic Birth).”

William Allen White’s *Emporia Daily Gazette:*

“The storm aroused by the episode has launched a move on the part of some legislators to revise the statutes pertaining to educational institutions and it is expected some attempt will be made to curtail the arbitrary power of the executive (January 10, 1925).”

“Public education is a sacred trust and must not be used for selfish, political or personal ends (January 13, 1925).”

When Governor Ben Paulen (R-Fredonia; two terms: 1925-1929) took office in January 1925, higher education governance was at the top of his public policy agenda as noted in the January 14, 1925 *Emporia Daily Gazette* article entitled “Keep Schools Out of Politics, New Governor Urges:”

“A state board of education, divorced from politics and serving without remuneration, was Governor Paulen’s prescription for the state’s education institutions, formulated in accordance with his pledge to ‘take the schools out of politics.’”

After careful consideration by the Legislature and approval by the Governor, a nine-member Board of Regents, purposely separated from direct control of the Governor, was created, and the Board’s first meeting took place on July 1, 1925. The Board of Regents was later established in the Kansas Constitution in 1966.

As outlined in the Constitution and by statute (K.S.A. 74-3202a), the Governor appoints and the Senate confirms the Regents. Both the executive and the legislative branches have the ability to appropriately influence the nomination process. Current constitutional and statutory provisions also outline the required composition of the Board, providing for a fair and balanced membership, as well as statewide representation. For example, there must be one Regent from each of the four Congressional districts, no more than five Regents can be from the same political party, and there can’t be more than one Regent from a particular county. Additionally, having nine Regents whose terms are staggered allows for continuity in governance and is a more conducive structure for long-range planning. When I joined the Board, I quickly noticed what I had often heard former Regents describe as the “obvious absence of partisanship.” When one attends a Board meeting, and listens to the policy debates that take place, it would be next to impossible to determine the political affiliation of a particular Regent. This is the exact structure and atmosphere Kansans and elected policymakers envisioned back in 1925.

In summary, HCR 5018 is a solution seeking a problem; it is unnecessary. The nine-member Board of Regents has evolved and contributed much to Kansas’s prosperity over the past 86 years. It began with five state universities – Emporia State, Fort Hays State, Kansas State, Pittsburg State, and the University of Kansas. Wichita State joined the system in 1964, then Washburn University and the state’s 19 community colleges and six technical colleges joined in 1999. We have in place today a governance and coordination structure that encourages collaboration, reduces duplication, enhances Kansans’ quality of life, and boosts the state’s economy. Our public colleges and universities, and the system as a whole, are successful because they operate in an environment that is outside the direct reach of undue political influence.

I previously described some of the political abuses that took place prior to the creation of the Board of Regents in 1925, but I have a feeling the abuses of the past would pale in comparison to the potential dangers associated with modern day university campuses consisting of multi-million dollar operating budgets, billion dollar endowments, high-stakes medical research and bioscience projects, lucrative intellectual property rights and corporate sponsorship opportunities, and multi-million dollar athletic department budgets and big-time college sports in general.

HCR 5018 proposes to take Kansas back down the dangerous and disastrous road it traveled once before. In this case, we would be wise to pay heed to Winston Churchill’s often-quoted warning: “Those that fail to learn from history, are doomed to repeat it.”