

BEFORE THE HOUSE HIGHER EDUCATION AND CAREER READINESS COMMITTEE

**REPRESENTATIVE LAURA LANESE
CHAIR**

SUB. SENATE BILL 135

**TESTIMONY
OF
BRUCE JOHNSON
PRESIDENT
INTER-UNIVERSITY COUNCIL OF OHIO**

APRIL 5, 2022

The Public Universities of Ohio

The University of Akron
University of Cincinnati
Miami University
Ohio University
Wright State University

Bowling Green State University
Cleveland State University
Northeast Ohio Medical University
Shawnee State University
Youngstown State University

Central State University
Kent State University
The Ohio State University
The University of Toledo

Chair Lanese, Vice Chair Young, Ranking Minority Member Ingram, and members of the House Higher Education and Career Readiness Committee, thank you for allowing me to provide testimony today in support of Substitute Senate Bill 135 on behalf of the state's fourteen public universities, all of which are members of the Inter-University Council of Ohio (IUC). My name is Bruce Johnson, and I am the President of the IUC. The IUC was established in 1939 as a voluntary educational association of Ohio's public universities. It is committed to ensuring affordable opportunities for the more than 300,000 students attending our member institutions without sacrificing the quality of their education or experience.

I would like to begin by acknowledging how far we believe we have come on this bill since its introduction a little over a year ago. Initially, the IUC was opposed and then, as the bill left the Senate last June, its position was neutral. That is not the case today. With the adoption of the substitute bill by the House Higher Education Committee at its last meeting on March 22, we believe the bill is in better form now than when it passed the Senate. For that reason, the IUC is testifying in support of the House substitute version of the bill.

The IUC thanks the sponsor, Senator Cirino, for his openness and accessibility, for working with us, for hearing and addressing our concerns, and for making changes to the bill. We appreciate his intent to make higher education in Ohio more available and affordable and to improve attainment. We support these concepts and always have. We appreciate the sponsor's willingness to understand how the changes proposed in the bill would affect our operations and then his flexibility to make improvements to the legislation where necessary. Madam Chair, we also thank you for your leadership and the time you took to examine the effects of the bill on Ohio's public universities. We very much appreciate your work with interested parties, your clear and constant communication, and your management of the process to consider and amend such a comprehensive and highly technical bill.

Over the last several weeks, because of our work with the sponsor and others, including Chancellor Randy Gardner, changes have been made to narrow the focus of the bill and several of the more problematic and unworkable provisions, from our perspective, have been removed.

I will summarize why we believe the bill is better.

Donor Gifts

Senate Bill 135 proposed to enact a new section of the Revised Code that, among other things, required any agreement relating to the intent of a donor expressed in a gift instrument to a state institution of higher education to specify a person or persons authorized to oversee the agreement and gift instrument and to ensure that the institution is following the donor's intent as expressed in the gift instrument. It created a new private right of action allowing decedents of the donor to reopen an agreement.

The IUC shares the concerns of the Ohio State Bar Association and the Ohio Attorney General regarding portions of this bill. The language in the sections that were removed effectively eliminated donor intent by giving others – unnamed, possibly multiple, heirs who may have different opinions – the ability to redirect gifts. Further, as federal charitable tax deductions are dependent on a donor relinquishing control over the funds, this arguably undermines the tax deductibility for gifts because it vests perpetual oversight over the use of the gift funds in the donor and his/her heirs.

In our opinion, the House correctly removed the problematic donor intent language in its entirety in the House substitute bill, which the IUC supports.

Land Sales

New language was added to the bill in the House substitute version that will improve the process by which public universities are required to transfer property. We thank the sponsor for this amendment and his willingness to

eliminate regulatory and bureaucratic barriers to help our public universities function more efficiently and cost-effectively. This language addresses concerns public universities have long had about the length of time it takes to approve land conveyances – many of which are time sensitive – under the current process.

The IUC supports this change to Senate Bill 135 and appreciates the House Higher Education Committee’s endorsement of it through its adoption of the House substitute bill.

Approval of Degree Programs

The bill as passed by the Senate required the Chancellor, when considering the approval of a new degree program for a state institution of higher education, to take into account the extent to which the program aligns with in-demand jobs. The House substitute bill keeps that language but more appropriately replaces “in-demand jobs” with “the state’s workforce development priorities.”

Degree Programs with Low Completion Rates

The bill as passed by the Senate permitted the Chancellor to suspend or limit enrollment in any degree program offered by any state institution of higher education if the Chancellor determines the program has a low completion rate at that institution. This section was further amended in the House substitute bill to permit the Chancellor to require a state institution to conduct and submit to the Chancellor, a viability analysis of any program the institution offers if the Chancellor determines the program has a low completion rate, has a low enrollment rate, or meets other criteria determined relevant by the Chancellor. The IUC supports this change to help improve attainment.

Supplemental Ohio College Opportunity Grants (OCOG)

The as passed by the Senate version of the bill required the Chancellor to provide students who receive an OCOG award in accordance with continuing law, and who also meet other eligibility criteria prescribed under the bill, with a supplement grant from the funds appropriated for OCOG. The IUC has long advocated for additional state need-based financial aid and funding for the OCOG program. We support this language in the bill and the clarification in the House substitute version that the supplemental award must be contingent on whether the chancellor determines sufficient funds remain after awarding all other OCOG grants.

We believe this change is necessary to avoid reducing award amounts to students currently eligible for OCOG when funding an award to students eligible for the supplemental program. To be eligible for the supplemental award, a student must have received an Ohio college opportunity grant under section 3333.122 of the Revised Code, must have completed at least two years of a bachelor's degree program, and must be making progress toward completing the student's bachelor's degree program.

Second Chance Grant Program

This program was initially created in the as introduced version of Senate Bill 135. At the time, the IUC had significant concerns with its structure and operation. Working with the sponsor, changes were made in the as passed by the Senate version of the bill. After that, funding for the program was appropriated in Am. Sub. House Bill 110, the current biennial operating budget. The House substitute bill now codifies in the Revised Code, in Section 3333.126(B), language for the permanent establishment and operation of the program.

That language renames the program the Second Chance Grant Program and makes it open to students from all qualifying institutions, public or private. It specifies that the grant amount must not be more than \$2,000 and removes the limit on the number of applicants. To be eligible for the program an individual must be a student who is an Ohio resident, has not attained a bachelor’s degree from a qualifying institution or an institution of higher education in another state, disenrolled from a qualifying institution while in good standing and did not transfer to a qualifying institution or an institution of higher education in another state in the three semesters following that disenrollment, enrolls in a qualifying institution within five years of disenrolling from a qualifying institution, is not enrolled in college credit plus, and meets any other criteria as established by the chancellor.

This language essentially codifies how the chancellor has been operating the program since the Department of Higher Education received funding in the budget bill. The IUC supports how the Department has structured and managed the program and the codification of this language.

Free Speech Policies in State Institutions of Higher Education

The bill as passed by the Senate required each state institution of higher education to adopt a policy that affirms prescribed principles regarding the regulation of free speech on campuses and to establish a process under which a student, student group, or faculty member may submit a complaint about an alleged violation. This language may seem redundant to language enacted last General Assembly in Senate Bill 40, but the IUC acknowledges the observation of the sponsor that it does have a slightly different focus and intent – to protect the speech of both faculty and students in the classroom as opposed to on the campus, more broadly. We appreciate the sponsor’s emphasis on free speech in these settings on campus.

Considering other bills currently pending before the Ohio House that are more limiting with respect to free speech and academic freedom, we also appreciate the principles laid out by the sponsor that recognize and reinforce that:

- Students have a fundamental constitutional right to free speech.
- A state institution of higher education shall be committed to giving students broad latitude to speak, write, listen, challenge, learn, and discuss any issue.
- A state institution of higher education shall be committed to maintaining a campus as a marketplace of ideas for all students and all faculty *in which the free exchange of ideas is not to be suppressed* because the ideas put forth are thought by some or even by most members of the institution's community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.
- It is ***NOT*** the proper role of a state institution of higher education to attempt to shield individuals from free speech, including ideas and opinions they find offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed, and that *the primary responsibility of faculty is to engage an honest, courageous, and persistent effort to search out and communicate the truth* that lies in the areas of their competence.

These are principles that should be endorsed in all public forums and by all public entities. We believe that limiting or mandating what may or may not be taught in the classroom is a violation of the First Amendment of the United State Constitution and the academic freedom it grants faculty in that setting. We further believe because public universities are uniquely the marketplace of ideas as recognized by the Supreme Court of the United States and referenced in Senate Bill 135, that censorship has no place in our public universities. Ohio’s public universities operate under the principles delineated in Senate Bill 135 already, so to codify them is not problematic from our perspective – even if they do conflict with other legislation currently pending that would prohibit or restrict free speech in a campus classroom.

Madam Chair and members of the committee, in conclusion I would reiterate what I said at the beginning of my testimony – we have come a long way on this comprehensive reform legislation that touches on almost every aspect of an institution’s academic operation. The improvements that have been made in the Senate and now in the House have made the bill a better bill. I commend the sponsor for his desire to effect change. We remain committed, just as I know the sponsor is and all of you are, to improving access, reducing costs, and graduating more students. We all agree that is in Ohio’s best interest.

Thank you again, Madam Chair, for your leadership on this bill. And to the rest of the committee members for your consideration of my testimony today. I am happy to answer any questions.