

SENATE BILL No. 647

AN ACT concerning the Kansas higher education coordination act; relating to the financing of postsecondary educational institutions; the powers, duties and functions of the state board of regents; relating to employees thereof; amending K.S.A. 46-247 and K.S.A. 2001 Supp. 71-620, 72-6503, 74-3201b, 74-3202c, 74-3202d, 74-3205a, 74-3205b, 74-3205c and 74-3205d and repealing the existing sections.

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

Section 1. K.S.A. 2001 Supp. 74-3201b is hereby amended to read as follows: 74-3201b. As used in the Kansas higher education coordination act:

(a) "State board of regents" or "state board" means the state board of regents provided for in the constitution of this state and established by K.S.A. 2001 Supp. 74-3202a, and amendments thereto, except as otherwise specifically provided in this act.

(b) "State educational institution" means any state educational institution, as defined in K.S.A. 76-711, and amendments thereto.

(c) "Municipal university" means ~~Washburn university of Topeka~~ *Washburn university of Topeka or any other municipal university established under the laws of this state.*

(d) "Community college" means any community college established under the laws of this state.

(e) "Technical college" means any technical college established under ~~K.S.A. 72-4468, and amendments thereto~~ *the laws of this state.*

(f) "Vocational education school" means any area vocational school or area vocational-technical school established under the laws of this state.

(g) "Public university" means any state educational institution.

(h) "Postsecondary educational institution" means any public university, municipal university, community college, technical college and vocational education school, and includes any entity resulting from the consolidation or affiliation of any two or more of such postsecondary educational institutions.

(i) "Proprietary school" means any proprietary school as defined in K.S.A. 72-4919, and amendments thereto. The term proprietary school does not include within its meaning any school or educational institution specifically exempted from the definition of proprietary school by the provisions of K.S.A. 72-4920, and amendments thereto.

(j) "Adult basic education program" and "adult supplementary education program" have the meanings respectively ascribed thereto in K.S.A. 72-4517, and amendments thereto.

(k) "Representative of a postsecondary educational institution" means any person who is the holder of an associate degree, a bachelor's degree, or a certificate of completion awarded by a postsecondary educational institution.

Sec. 2. K.S.A. 2001 Supp. 74-3202c is hereby amended to read as follows: 74-3202c. (a) In the exercise of its leadership role, the state board of regents shall be an advocate for the provision of adequate resources and sufficient authority for all postsecondary educational institutions so that each postsecondary educational institution can realize, within its prescribed mission, role and scope, its full potential to the benefit of the students who attend such postsecondary educational institution and to the benefit of all Kansas residents in terms of receiving the benefits of a highly educated and vocationally trained populace.

(b) In addition to other duties and functions prescribed by law, the state board of regents shall:

(1) *Serve as the representative of the public postsecondary educational system before the governor and the Kansas legislature;*

(2) *provide statewide planning for higher education and adopt, from time to time amend, revise or modify, and administer a comprehensive plan for coordination of higher education within this state;*

~~(2)~~ (3) *determine institutional roles and review institutional missions and goals for each postsecondary educational institution taking into account both institutional needs and the needs of the state's system of higher education as a whole;*

~~(3)~~ (4) *develop articulation procedures so that maximum freedom of transfer among and between postsecondary educational institutions is ensured;*

~~(4)~~ *approve or disapprove for state funding purposes existing and proposed educational programs, courses of instruction and out-district program and course locations*

(5) *develop and implement, in conjunction with the postsecondary educational institutions, a comprehensive plan for coordinating all program offerings by postsecondary educational institutions. The board shall not coordinate program offerings that are specifically developed and entirely paid for by an entity which limits enrollment to a class of individuals who are employees, members or business customers of the entity;*

~~(5) review budget requests and requests for state funding of postsecondary educational institutions and present~~

(6) *develop a unified budget for higher education state funding of postsecondary educational institutions and present such budget to the governor and the legislature each year and receive and allocate the state funds appropriated for funding of postsecondary educational institutions in accordance with legislative directives, except as provided in subsection (e) of K.S.A. 2001 Supp. 74-3202d, and amendments thereto;*

~~(6)~~ (7) *approve core indicators of quality performance for postsecondary educational institutions after considering core indicators recommended by each such postsecondary educational institution;*

~~(7)~~ (8) *resolve conflicts among and between postsecondary educational institutions;*

~~(8)~~ (9) *develop and implement a comprehensive plan for the utilization of distance learning technologies;*

~~(9)~~ (10) *develop each year and recommend to the governor and the legislature a policy agenda for higher education, which policy agenda shall assess priorities among proposals for policy change, programmatic recommendations, and state funding requests;*

~~(10)~~ (11) *conduct continuous studies of ways to maximize the utilization of resources available for higher education in Kansas and initiate action for improvement;*

~~(11)~~ (12) *conduct continuous studies of how state policies affect higher education and how Kansas economic and demographic trends impact upon accessibility and affordability of postsecondary education to Kansas residents, and initiate ways to improve such accessibility and affordability;*

~~(12)~~ (13) *receive and consider reports, proposals and recommendations of the commissions and take such actions thereon as are deemed necessary and appropriate;*

~~(13)~~ (14) *report annually on the performance of its functions and duties to the governor and the legislature; and*

~~(14)~~ (15) *exercise such other powers and perform such other functions and duties as are deemed necessary and appropriate to the fulfillment of its constitutional and statutory responsibilities.*

(c) Notwithstanding any of the powers, duties and functions conferred and imposed upon the state board of regents under the Kansas higher education coordination act, the boards of trustees of the community colleges shall continue to have custody of and be responsible for the property of their respective community colleges and shall be responsible for the operation, management and control of such community colleges, except as otherwise expressly provided by law.

Sec. 3. K.S.A. 2001 Supp. 74-3202d is hereby amended to read as follows: 74-3202d. (a) During the 2000 fiscal year, the state board of regents (1) shall review the performance indicators developed by the postsecondary educational institutions, including the municipal university; (2) after consideration of the core indicators of quality performance identified by the respective commissions and with the active involvement of the *postsecondary educational* institutions, shall approve those indicators that the state board determines should be implemented; and (3) shall select from among the indicators approved for implementation those indicators that will become determinants for the allocation of state moneys on the basis of performance. The indicators selected may vary among the *postsecondary educational* institutions and among institutional sectors and, if feasible, shall include indicators developed and adopted by the governing bodies of each postsecondary educational institution based on the needs of each such *postsecondary educational* institution.

(b) During the 2001 fiscal year, the postsecondary educational institutions, including the municipal university, shall develop institutional improvement plans showing how they will implement the performance indicators applicable to their institution and how they will measure

performance on the basis of each indicator. Institutional improvement plans shall be revised and submitted to the state board of regents by each institution at least every three years. The *state* board of regents shall provide technical assistance to institutions in the development, implementation, and revision of their improvement plans.

(c) Commencing on July 1, 2001, institutional improvement plans shall be implemented for each postsecondary educational institution, including the municipal university. Each *postsecondary educational* institution shall begin the data collection, measurement, or other documentation necessary in order for its performance to be evaluated with regard to each indicator.

(d) *Commencing on July 1, 2004, the state board shall have authority to review and approve institutional improvement plans, and, on the basis of each plan, shall develop and implement a performance agreement with each postsecondary educational institution. Performance agreements shall incorporate the goals, priorities, policies and mission objectives identified in the institutional improvement plans, and the performance measures, which will be used to demonstrate compliance and progress.*

(e) *Commencing on July 1, 2005, each postsecondary educational institution's receipt of new state funds shall be contingent on achieving compliance with its performance agreement. As used in this subsection, "new state funds" means that amount of state funds by which the amount received by a postsecondary educational institution for a fiscal year exceeds the amount received by that postsecondary educational institution for the preceding fiscal year. The state board shall determine the amount of new state funds to be received by each postsecondary educational institution, taking into account the postsecondary educational institution's level of compliance with its performance agreement and the funds available for distribution. Any new state funds received by a postsecondary educational institution pursuant to a performance agreement shall be deemed to be part of the state funds received in the preceding fiscal year for the purposes of determining new state funds for the postsecondary educational institution pursuant to a performance agreement for the ensuing fiscal year. If a postsecondary educational institution is not allocated any portion of new state funds in a fiscal year, the new state funds which the institution was eligible to be allocated by the state board in such fiscal year shall be deemed part of the state funds received by such institution in such fiscal year for the purpose of determining such institution's base budget and any new state funds for the ensuing fiscal year. The failure of a postsecondary educational institution to enter a performance agreement with the state board shall prevent that postsecondary educational institution from receiving any new state funds. Any funds designated by the legislature for a specific postsecondary educational institution or purpose shall be exempt from the provisions of this section.*

Sec. 4. K.S.A. 2001 Supp. 74-3205a is hereby amended to read as follows: 74-3205a. (a) For the purpose of expediting the exercise of powers and the performance of functions and duties of the state board of regents, there is derived from the state board a commission for community colleges and vocational/technical education, a commission for public universities, and a commission for higher education coordination. Each commission shall be composed of three members who are members of the state board. At the time a member is appointed to the state board, the governor shall designate the commission on which the member shall serve so that each member of the state board is designated for service on one of the commissions. At no time after July 1, 2002, shall there be more than one representative of any one postsecondary educational institution designated for service on a commission. The members of each commission shall organize annually by electing one member of their respective commissions as chairperson. The chairperson of the state board may not serve as the chairperson of a commission.

(b) *The provisions of this section shall expire on June 30, 2003.*

Sec. 5. K.S.A. 2001 Supp. 74-3205b is hereby amended to read as follows: 74-3205b. (a) The commission for community colleges and vocational/technical education shall meet at Topeka at least quarterly in each year on dates fixed by the commission. Special meetings may be held upon the call of the chairperson of the commission or upon petition to the chairperson by the other two members of the commission. The date

and place of all special meetings shall be designated in the call. Two members of the commission shall constitute a quorum for the transaction of business but one member may adjourn any regular or special meeting to a definite time and place.

(b) The commission for community colleges and vocational/technical education shall:

(1) Propose for adoption by the state board rules and regulations for supervision of the community colleges, technical colleges and vocational education schools;

(2) provide state wide planning for community colleges, technical colleges and vocational education schools.

(3) initiate plans for institutional advancement and new educational programs and courses of instruction;

(4) review existing and proposed educational programs, courses of instruction, and program and course locations and make recommendations to the state board for approval or disapproval of such programs, courses and locations for state funding purposes;

(5) review requests of community colleges, technical colleges and vocational education schools for state funding and formulate recommendations thereon;

(6) identify core indicators of quality performance for community colleges, technical colleges and vocational education schools;

(7) develop each year a policy agenda for community colleges, technical colleges and vocational education schools;

(8) conduct continuous studies of ways to maximize the utilization of resources available for community colleges, technical colleges and vocational education schools and formulate recommendations for improvement; and

(9) make reports on the performance of its functions and duties together with any proposals and recommendations it may formulate with respect thereto at each regular meeting of the state board.

(c) *The provisions of this section shall expire on June 30, 2003.*

Sec. 6. K.S.A. 2001 Supp. 74-3205c is hereby amended to read as follows: 74-3205c. (a) The commission for public universities shall meet at Topeka at least quarterly in each year on dates fixed by the commission. Special meetings may be held upon the call of the chairperson of the commission or upon petition to the chairperson by the other two members of the commission. The date and place of all special meetings shall be designated in the call. Two members of the commission shall constitute a quorum for the transaction of business but one member may adjourn any regular or special meeting to a definite time and place.

(b) The commission for public universities shall:

(1) Propose for adoption by the state board of rules and regulations for operation and management of the state educational institutions;

(2) initiate plans for institutional advancement and new educational programs and courses of instruction;

(3) formulate budget requests for the state educational institutions;

(4) review existing educational programs and courses of instruction at the public universities and evaluate the educational and economic justification, or lack thereof, for such programs and courses;

(5) identify core indicators of quality performance for public universities;

(6) make recommendations to the state board with respect to the appointment of chief executive officers of the state educational institutions;

(7) develop each year a policy agenda for public universities;

(8) conduct continuous studies of ways to maximize the utilization of resources available for public universities and formulate recommendations for improvement; and

(9) make reports on the performance of its functions and duties together with any proposals and recommendations it may formulate with respect thereto at each regular meeting of the state board.

(c) *The provisions of this section shall expire on June 30, 2003.*

Sec. 7. K.S.A. 2001 Supp. 74-3205d is hereby amended to read as follows: 74-3205d. (a) The commission for higher education coordination shall meet at Topeka at least quarterly in each year on dates fixed by the commission. Special meetings may be held upon the call of the chairper-

son of the commission or upon petition to the chairperson by the other two members of the commission. The date and place of all special meetings shall be designated in the call. Two members of the commission shall constitute a quorum for the transaction of business but one member may adjourn any regular or special meeting to a definite time and place.

(b) The commission for higher education coordination shall:

(1) Conduct continuous review and evaluation of the comprehensive plan for coordination of higher education and make recommendations as deemed necessary and appropriate for amendment, revision or modification of the plan;

(2) review existing and proposed educational programs, courses of instruction, and program and course locations and make recommendations to the state board with respect to the coordination of such programs, courses and locations;

(3) collect and analyze data and maintain a uniform postsecondary education data base;

(4) formulate recommendations for resolution of conflicts among and between postsecondary educational sectors and institutions;

(5) compile and coordinate core indicators of quality performance for postsecondary educational institutions;

(6) broker affiliations and mergers of postsecondary educational institutions;

(7) coordinate a state system interface with ~~the municipal university~~ *universities* and with private colleges and universities;

(8) formulate budget requests for state student financial assistance programs; and

(9) make reports on the performance of its functions and duties together with any proposals and recommendations it may formulate with respect thereto at each regular meeting of the state board.

(c) *On June 30, 2003, the provisions of subsection (a) of this section shall expire and shall be of no force and effect. On and after June 30, 2003, the powers and duties of the commission for higher education coordination shall be powers and duties of the state board of regents and the references in subsection (b) to the commission for higher education coordination shall mean the state board of regents. On and after June 30, 2003, the state board shall have authority to establish and organize such commissions, committees, advisory councils or other groups as it shall deem necessary and appropriate to the fulfillment of its constitutional and statutory responsibilities.*

Sec. 8. K.S.A. 2001 Supp. 71-620 is hereby amended to read as follows: 71-620. (a) In each fiscal year, commencing with the 2001 fiscal year, each community college is entitled to an operating grant from the state general fund in an amount to be determined by the state board. The state board shall:

(1) Determine the average amount of moneys from the state general fund expended per FTE lower division undergraduate student in the preceding fiscal year at the regional state educational institutions;

(2) (A) in the 2001 fiscal year, compute 50% of the amount determined under (1); (B) in the 2002 fiscal year, compute 55% of the amount determined under (1); (C) in the 2003 fiscal year, compute 60% of the amount determined under (1); in the 2004 fiscal year and in each fiscal year thereafter, compute 65% of the amount determined under (1);

(3) determine the total number of FTE students of all the community colleges;

(4) multiply the amount computed under (2) by the total number of FTE students determined under (3). *Subject to the provisions of subsection (e) of K.S.A. 2001 Supp. 74-3202d, and amendments thereto*, the product is the total amount of operating grants the community colleges are entitled to receive for the fiscal year.

(5) Each community college which is not an officially designated area vocational school shall receive an amount equivalent to the difference between credit hour state aid received in the 1999 fiscal year for credit hours in any subject or course approved as a vocational education subject or course and $1\frac{1}{6}$ times the amount of credit hour state aid received in the 1999 fiscal year for credit hours in any subject or course approved as a vocational education subject or course. The amount determined under this provision shall be distributed in equal installments in the 2001

through 2004 fiscal years as a part of the community college's operating grant, but shall not be subject to the provisions of K.S.A. 71-204, and amendments thereto.

(6) In each fiscal year, the state board, for the purpose of allocating the amount determined under (4) to the community colleges, shall deduct the total of the amounts determined under (5) from the amount determined under (4).

(7) In the 2001 fiscal year, the remaining balance determined under (6) shall be allocated to each community college according to the ratio the total amount of state aid received by the community college in the 2000 fiscal year bears to the total amount of state aid received by all community colleges in the 2000 fiscal year, subject to adjustments for changes in each community college's FTE enrollment from the 2000 fiscal year to the 2001 fiscal year.

(8) In the 2002 fiscal year and in each fiscal year thereafter, the remaining balance determined under (6) shall be allocated to each community college according to the ratio the amount of the operating grant received by the community college in the prior fiscal year bears to the total amount of operating grants received by all community colleges in the prior fiscal year, subject to adjustments for changes in each community college's FTE enrollment from the prior fiscal year to the current fiscal year.

(b) In each fiscal year, commencing with the 2003 fiscal year, each community college is eligible to receive a quality performance grant from the state general fund. If the state board determines that the community college has demonstrated effectiveness in complying with its role and mission statement and has met or exceeded the core indicators of quality performance for community colleges identified and approved by the state board, the community college shall receive a quality performance grant in an amount which shall be determined by the state board by computing 2% of the amount of the operating grant the community college received in the preceding fiscal year. The computed amount is the amount of the quality performance grant the community college shall receive for the fiscal year.

(c) For the purposes of this section, the FTE enrollment of the community college shall be based on: (1) Enrollment of students who are residents of the state of Kansas, or are considered residents of the state of Kansas pursuant to the provisions of K.S.A. 2001 Supp. 71-407, and amendments thereto; and (2) the greater of FTE enrollment of the community college in the current fiscal year or FTE enrollment in the preceding fiscal year.

(d) As used in this section, the term regional state educational institutions means Emporia state university, Fort Hays state university and Pittsburg state university and the term lower division undergraduate student means a freshman or sophomore.

Sec. 9. K.S.A. 2001 Supp. 72-6503 is hereby amended to read as follows: 72-6503. (a) In each fiscal year, the university is entitled to an operating grant from the state general fund in an amount to be determined by the state board. The state board shall:

(1) Determine the average amount of moneys from the state general fund expended per FTE lower division undergraduate student in the preceding fiscal year at the regional state educational institutions;

(2) (A) in the 2002 fiscal year, compute 55% of the amount determined under (1); (B) in the 2003 fiscal year, compute 60% of the amount determined under (1); (C) in the 2004 fiscal year and in each fiscal year thereafter, compute 65% of the amount determined under (1);

(3) multiply the amount computed under (2) by the number of FTE students of the university. *Subject to the provisions of subsection (e) of K.S.A. 2001 Supp. 74-3202d, and amendments thereto*, the product is the amount of the operating grant the university is entitled to receive for the fiscal year.

(b) In each fiscal year, commencing with the 2003 fiscal year, the university is eligible to receive a quality performance grant from the state general fund. If the state board determines that the university has demonstrated effectiveness in complying with its mission and goals statement and has met or exceeded the core indicators of quality performance identified and approved for the university by the state board, the university

shall receive a quality performance grant in an amount which shall be determined by the state board by computing 2% of the amount of the operating grant the university received in the preceding fiscal year. The computed amount is the amount of the quality performance grant the university shall receive for the fiscal year.

(c) (1) For the purposes of this section, the FTE enrollment of the university shall be based on: (A) Enrollment of students who are residents of the state of Kansas; and (B) the greater of FTE enrollment in the second or third fiscal year preceding the fiscal year for which the appropriation for the operating grant is made.

(2) As used in this section, the term regional state educational institutions means Emporia state university, Fort Hays state university and Pittsburg state university and the term lower division undergraduate student means a freshman or sophomore.

(d) Moneys received as state grants from the state general fund shall not be expended for the purpose of expansion of graduate programs or for the purpose of expansion of off-campus programs without the prior approval of the state board.

Sec. 10. K.S.A. 46-247 is hereby amended to read as follows: 46-247. The following individuals shall file written statements of substantial interests, as provided in K.S.A. 46-248 to 46-252, inclusive, and amendments thereto:

(a) Legislators and candidates for nomination or election to the legislature;

(b) Individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office;

(c) State officers, employees and members of boards, councils and commissions under the jurisdiction of the head of any state agency who are listed as designees by the head of a state agency pursuant to K.S.A. 46-285, and amendments thereto;

(d) Individuals whose appointment to office is subject to confirmation by the senate whether or not such individual is a state officer or employee;

(e) General counsels for state agencies irrespective of how compensated;

(f) The administrator or executive director of the education commission of the states, the interstate compact on agricultural grain marketing, the Mo-Kan metropolitan development district and agency compact, the Kansas City area transportation district and authority compact, the midwest nuclear compact, the central interstate low-level radioactive waste compact, the multistate tax compact, the Kansas-Oklahoma Arkansas river basin compact, the Kansas-Nebraska Big Blue river compact, and the multistate lottery;

(g) Private consultants under contract with any agency of the state of Kansas to evaluate bids for public contracts or to award public contracts.

(h) *From and after January 1, 2003, any faculty member or other employee of a postsecondary educational institution as defined by K.S.A. 2001 Supp. 74-3201b, and amendments thereto, who provides consulting services and who, on behalf of or for the benefit of the person for which consulting services are provided:*

(1) *Promotes or opposes action or nonaction by any federal agency, any state agency as defined by K.S.A. 46-224, and amendments thereto, or any political subdivision of the state or any agency of such political subdivision or a representative of such state agency, political subdivision or agency; or*

(2) *promotes or opposes action or nonaction relating to the expenditure of public funds of the federal government, the state or political subdivision of the state or agency of the federal government, state or political subdivision of the state.*

Sec. 11. K.S.A. 46-247 and K.S.A. 2001 Supp. 71-620, 72-6503, 74-3201b, 74-3202c, 74-3202d, 74-3205a, 74-3205b, 74-3205c and 74-3205d are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.