

MINUTES OF THE SENATE COMMITTEE ON EDUCATION.

The second meeting of the day was called to order by Chairperson Dwayne Umbarger at 3:00 p.m. on March 25, 2002 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Ben Barrett, Legislative Research
Theresa Kiernan, Revisor of Statutes
Paul West, Legislative Research
Judy Steinlicht, Secretary

Conferees appearing before the committee: Kim Wilcox, President and CEO, KS Board of Regents
Dr. Jackie Vietti, President, Butler County Community College
Senator Dave Jackson
Tim Emert, Attorney and former Senator
Charles T. Engel, Chairman, Washburn Univ. Board of Regents
Jerry B. Farley, President, Washburn University

Others attending:

SB647–Kansas higher education coordination act amendments

Kim Wilcox, President, Kansas Board of Regents, spoke in favor of **SB647**. New relationships between the governing boards, institutions and legislature have developed since the implementation of the Higher Education Coordination Act of 1999. The board feels it is now time to recraft the system, with emphasis on performance, accountability, refining and redefining roles and responsibilities. (Attachment 1)

Dr. Jackie Vietti, President of Butler County Community College spoke in favor of **SB647**. Dr. Vietti believes **SB647** provides adjustments to **SB345** that will enable the Kansas Board of Regents to exercise the authority necessary for a coordinated system of higher education. (Attachment 2)

Senator Dave Jackson gave testimony in opposition to **SB647** as introduced. (Attachment 3) Senator Jackson provided a signed statement from the entire Shawnee County Legislative Delegation expressing their unanimous opposition to the proposals currently contain in **SB647**. (Attachments 4)

Former Senator Tim Emert shared his views on **SB647**. Years were spent in crafting **SB345** and he is concerned that the delicate balances written into the Kansas Higher Education Coordination Act be protected and maintained. The act was meant to coordinate, not control. Senator Emert's concerns are listed in his attachment. The bill proposes significant changes and he urges that the bill receive more study. (Attachment 5)

Representative Annie Keuther represents the area of Washburn University and stated that she has many of the same concerns as Senator Emert and will not go into detail as the Committee has the delegation letter and she will be followed by representatives of Washburn University who will state those concerns. She believes there are a lot of issues to be dealt with in the bill. (no attachment)

Charles T. Engel, Vice Chairman, Washburn University Board of Regents, addressed the Committee on background of **SB345** and the numerous areas of agreement between the Washburn Board of Regents and the Kansas Board of Regents regarding the successful implementation of the provision of **SB345**. Mr. Engel stated Washburn University's position on **SB345** and explained specific concerns regarding the proposals contained in **SB647**. (Attachment 6)

Jerry B. Farley, President, Washburn University, stated that rather than oppose **SB647**, they are proposing amendments which, in their judgment, accomplish the stated goals of the Kansas Board of Regents, while at the same time preserving the spirit and intent of coordination and cooperation as originally embodied in **SB345**. The amendments are explained in the attachment. (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION at on March 25, 2002 in Room 123-S of the Capitol.

Chairman Umbarger stated it has been recommended that **SB647** be sent to an interim committee and that will be taken into consideration.

The Committee will meet at 1:00 tomorrow, March 26.

Adjourned 5:14 p.m.

Testimony in support of S.B. 647
Senate Education Committee

March 25, 2002

Kim Wilcox
President and CEO, Kansas Board of Regents

- Nearly three years since implementation of the Higher Education Coordination Act of 1999
 - New relationships between governing boards
 - New relationships among the institutions
 - New relationship with the legislature
 - More knowledgeable
- Inherited a cumbersome system that was designed at a different time and for a different purpose
- That system remains essentially intact
- It is now time to recraft that system, with the following components
 - Shared decision-making
 - Emphasis on performance
 - Accountability of the institutions and of the Board of Regents
 - Refining and redefining roles and responsibilities

Board of Regents

- Quality assurance – statewide
- Institutional accountability
- Statewide priority setting (with the Legislature)

Local Boards of Control

- Quality assurance – local
- Institutional management
- Local priority setting

Institutions

- Provision of quality educational, research, service, and economic development programs

Legislature

- Statewide oversight
- System accountability
- Statewide priority setting (with the Board of Regents)

*Senate Education
3-25-02 #2
Attachment 1*



KANSAS ASSOCIATION OF COMMUNITY COLLEGE TRUSTEES

700 SW Jackson, Suite 401 • Topeka, KS 66603-3757 • 785-357-5156 • FAX 785-357-5157
Sheila Frahm, Executive Director • E-mail: frahmkacct@cjnetworks.com

**Testimony to the Senate Education Committee
Regarding Senate Bill 647
Provided by Dr. Jackie Vietti, President
Butler County Community College
March 25, 2002**

Introduction

Chairman Umbarger and Members of the Education Committee, thank you for the opportunity to come before you today to speak on behalf of Senate Bill 647. The community colleges appreciate the work you do to strengthen higher education in our state, as the means to an educated workforce and quality of life for the citizens of Kansas.

Speaking Points

- Senate Bill 647 provides adjustments to the original higher education bill, SB 345, that enables the Kansas Board of Regents to exercise the authority they believe is necessary to build a true coordinated system of higher education within our state.
- The community colleges appreciate the input that was afforded them as the proposed amendments were being developed. Throughout the discussions we remained committed to evincing a workable solution and we believe a "livable" compromise has been achieved.
- As is often true in times of change, the community colleges are somewhat anxious regarding the unknown, specifically how we will preserve a suitable balance between local control, as supported by local property taxes and local needs, and state coordination, that is required by KBOR to create a new system of higher education.
- The community colleges will continue to speak in a unified and thoughtful manner relative to higher education issues. We look forward to continuing open communication and extended discussion with the Kansas Board of Regents regarding the remaining recommendations within the NORED study of higher education in Kansas.

*Senate Education
3-25-02 #2
Attachment 2*



DAVID D. JACKSON
 STATE SENATOR, 18TH DISTRICT
 NORTH SHAWNEE COUNTY
 HOME ADDRESS: 2815 NE ROCKAWAY TRAIL
 TOPEKA, KANSAS 66617-2305
 (785) 357-6538
 OFFICE: STATE CAPITOL BUILDING, ROOM 458-E
 TOPEKA, KANSAS 66612-1504
 785 296-7365

COMMITTEE ASSIGNMENTS

WAYS AND MEANS
 ELECTIONS AND LOCAL GOVERNMENT
 TRANSPORTATION
 JOINT COMMITTEE ON SPECIAL CLAIMS
 AGAINST THE STATE

SENATE CHAMBER

Testimony on SB 647
 by Senator Dave Jackson
 Senate Education Committee
 March 25, 2002

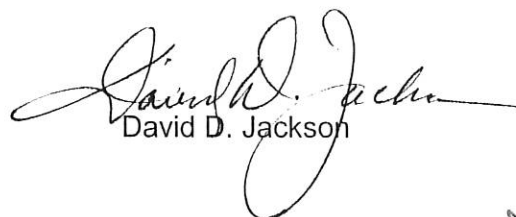
I am appearing before you today as the state senator whose district incorporates Washburn University. In doing so, I wish to register my strong objection to Senate Bill 647 as introduced. I believe it represents an illegitimate intrusion into the statutory authority of the Washburn University Board of Regents and is offensive to the taxpayers whose local contributions support the institution.

In my years as a member of a local board of education, I heard much regarding the self-executing powers of the State Board of Education. Never did I see any attempt on the part of the State Board of Education to intrude into affairs of a locally governed board or institution in the manner in which the Kansas Board of Regents are proposing to do under SB 647. To exempt themselves from rules and regulatory procedures, to have the authority to allocate state funds to non-state institutions, and to withhold those funds without review, in essence, turns the Kansas Board of Regents into a "fourth branch of government". We would be turning over our legislative responsibilities for higher education to an appointed board with little ability to restrain their behaviors until after the fact.

What makes these proposals even more offensive is that they are not accompanied by a reduction in support from local taxpayers. At Washburn University, less than 20% of its operating revenue comes from the state. While this is essential to its successful operations, it ignores the fact that 80% of the institution's income is generated by local sources and students. There is a statutorily created board to govern the institution, and to allow a state-wide appointed board to usurp those governance authorities in the name of coordination without accepting the financial responsibilities is inappropriate.

Washburn supports coordination and is a willing member of a "coordinated" system. Many of you know how cooperative the administration and board were in supporting passage of SB 345. We have to ask ourselves why they have expressed concern over the current proposals and to respect their unique viewpoint.

I understand the University will be offering amendments which will render SB 647 acceptable to them. They may be more accommodating than I care to be on this issue, but if these amendments are acceptable to you and to them I will work with you to secure passage of the amended bill.


 David D. Jackson

Senate Education
 3-25-02 #2
 Attachment 3

STATE OF KANSAS

LANA GORDON
REPRESENTATIVE, FIFTY-SECOND DISTRICT
5820 SW 27TH ST.
TOPEKA, KANSAS 66614
(785) 273-1203
STATE CAPITOL—RM. 181-W
TOPEKA, KANSAS 66612-1504
(785) 296-6014
(1-800) 432-3924



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: HEALTH & HUMAN SERVICES
HIGHER EDUCATION
K-12 EDUCATION
NEW ECONOMY
CHAIR: SHAWNEE COUNTY LEGISLATIVE
DELEGATION

March 22, 2002

Senator Dwayne Umbarger
Chair, Senate Education Committee
State Capitol - 401-S
Topeka, KS 66612

Senator Umbarger and members of the Committee:

We, the undersigned members of the Shawnee County Legislative Delegation, express our unanimous opposition to the proposals currently contained in Senate Bill 647.

This legislation, which purports to further implement the provisions of 1999 Senate Bill 345 (the Higher Education Coordination Act), is an attempt to extend state control over coordinated institutions far beyond that intended in enacting Senate Bill 345. In fact, this proposed legislation would give the Kansas Board of Regents greater control over coordinated institutions in 2002 than it had over the institutions it governed prior to the passage of Senate Bill 345.

We reject the premise that this level of control is necessary to ensure accountability. There are a variety of mechanisms within Senate Bill 345 to ensure institutions are accountable not only to their specific boards but to the Kansas Board of Regents and, ultimately, the Kansas Legislature and the citizens of the state. The level of control which this bill would give to the Kansas Board of Regents, far exceeds the financial support which the State of Kansas provides to the coordinated institutions. At Washburn University, state funding is less than 20% of its operating income. Yet, these proposals would give virtual total control to the Kansas Board of Regents while local taxpayers will continue to provide the bulk of the financial support. This is unacceptable.

We urge the Committee to reject Senate Bill 647 as written. Washburn University will be offering amendments and if the Committee adopts them, we will support passage of Senate Bill 647 as amended.

Sincerely,

Handwritten signature of Lana Gordon in cursive script.

Representative Lana Gordon
District 52

Handwritten signature of Senator Dave Jackson in cursive script.

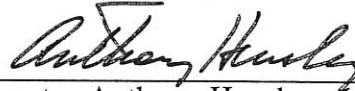
Senator Dave Jackson
District 18

Senate Education
3-25-02 #2
Attachment 4

Senator Dwayne Umbarger
page 2
March 22, 2002



Representative Becky Hutchins
District 50



Senator Anthony Hensley
District 19



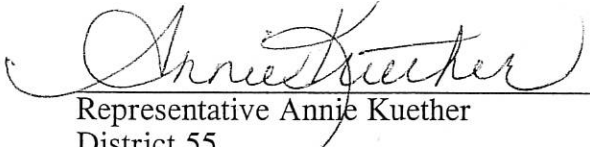
Representative Roger E. Toelkes
District 53



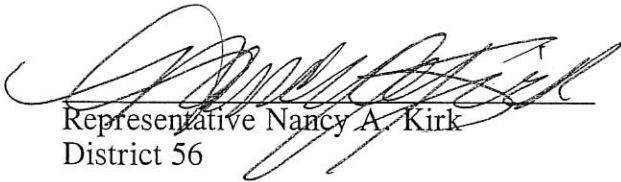
Senator Lynn Jenkins
District 20



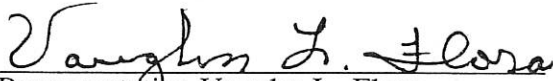
Representative Doug Mays
District 54



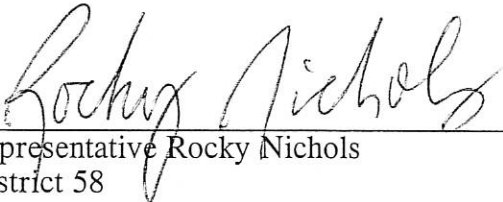
Representative Annie Kuether
District 55



Representative Nancy A. Kirk
District 56



Representative Vaughn L. Flora
District 57



Representative Rocky Nichols
District 58

Senate Bill No. 647
Testimony before Senate Education Committee
March 25, 2002
Tim Emert

Mr. Chairman, members of the committee, thank you for this opportunity to share my views on Senate Bill No. 647.

First, let me tell you, I am here representing no one but myself. I'm here because I care about the future of all forms of postsecondary education in Kansas. I'm here because I'm greatly concerned that the delicate balances written into the Kansas Higher Education Coordination Act are protected and maintained.

It's called the Kansas Higher Education Coordination Act. The operative word is "coordination".

When the transfer of all higher education entities is made to the Board of Regents for coordination, the board will have no greater control of those entities than it and the State Board of Education had prior to the Act.

That was the promise made to the institutions, to our fellow legislators, to the governor and to the taxpayers. It was to be coordination. If we had meant control, or something more, we would have said it.

Prior to 1999, the Board of Regents served as the only board for its institutions. We knew that the role of coordination would be difficult. For that reason, every section of the law was carefully crafted. That is one of the delicate balances, the board would control such institutions and coordinate those and thirty others.

Some of my concerns regarding the bill before you are:

1) Page 2, line 20, provides that the state board will "serve as the representative of the public postsecondary educational system before the governor and the Kansas legislature."

The ramifications of that provision bother me. Does that cut out all the elected boards? Does that cut off the legislature from the governor?

2) Page 2, line 25 empowers the state board to set the goals and determine the roles of "each postsecondary educational institution."

This provision strips boards of community colleges, Washburn and technical colleges of their primary purpose, setting policies for their individual institutions. It takes all control from those boards, a result never intended by the original legislation.

3) Page 2, line 38. Does deleting the responsibility to "review budget requests and requests for state funding of post secondary educational instructions" permit the state board to totally ignore such requests if it chooses? It would appear so.

*Senate Education
3-25-02 #2
Attachment 5*

4) Page 4, line 24. Here, as throughout the bill, it appears that the intent of the state board is to take total control of funding, to determine unilaterally who receives what funds and to dictate the distribution of those funds. This is a position that would never have been adopted by the authors of the Act.

5) Page 4, line 38. This provision is the exclamation point for the statement above. My reading is that the state board is in total control of the distribution of all new state funds intended for postsecondary education.

This new approach to funding and distribution of funds requires careful and thoughtful scrutiny by each of you and while looking at it you should determine what authority is taken from the legislature and placed in the hands of the state board.

Early in the comments, I said that it is of utmost importance that you maintain and protect the delicate balances contained in the Act. Nothing in the bill will destroy that balance more than the provisions on page 5, line 25; page 6, line 20; page 7, line 8; and page 7, line 42. You don't have to shuffle through pages to read those because simply stated, I can tell you that they rip out major parts of the Act. They are repealers. They repeal the commissions, the entities put in law to insure a place at the table for all institutions of higher education in Kansas.

Those commissions were established in law to send a message that all segments of post-secondary education are important to our future. They were also included to send a message to future governors. That message, these are important areas and should be considered when looking at qualifications of persons being appointed to the board.

While there are other provisions that raise questions, I will only mention one more. The bill allows the state board to be exempt from the provisions of the Kansas Administrative Procedures Act. Why? For years the Board of Regents has been subject to this Act when adopting rules and regulations. Now to cast off this requirement is, to me, a significant departure from past legislative intent. Please thoroughly inform yourselves of such a major departure before enacting it.

In conclusion, I say: What's the hurry? This bill was just introduced. It proposes significant changes. I've listed only a few concerns that have come to me in a quick reading of the bill last Friday. The bill must have further study.

I am reminded of an article that was written by Regent Lew Ferguson in 1999. At that time he was a reporter for the Associated Press and in essence wrote:

This year the Kansas legislature was able to resolve a controversy that has existed for more than 40 years and has been the subject of countless commissions, task forces and committees. It has brought the coordination of all public postsecondary education to the same board.

Years were spent debating the issues crafting this legislation, I ask you to not undermine that work. Take the time to study the issues and give the subject the attention it deserves. SB 647 in its present form does not enhance the coordination of postsecondary education in Kansas.



WASHBURN University

BOARD OF REGENTS

**Testimony to the
Senate Education Committee
regarding Senate Bill 647**

by

**Charles T. Engel
Vice Chair, Washburn University Board of Regents
March 25, 2002**

Mr. Chairman, Members of the Committee:

We appear before you today to discuss the proposed amendments to the Kansas Higher Education Coordination Act (Senate Bill 345) contained in Senate Bill 647. Before doing so, however, we want to identify the numerous areas of agreement between the Washburn Board of Regents and the Kansas Board of Regents (KBoR) regarding the successful implementation of the provisions of SB 345.

We are in agreement and full support over the necessity for an effectively coordinated system of higher education in Kansas. We are in agreement and have continually urged support for development of a comprehensive budget model for all post-secondary education interests as envisioned by SB 345. We continue to be in full agreement and support the funding provisions contained in SB 345 until such time as a comprehensive financing model is put into place. We agree the KBoR should approve programs for state funding purposes. We agree with the KBoR that the programs offered by our institutions should be of high quality and that our operations should be efficient and effective. We agree with the KBoR and worked closely with them in developing performance measures for our institutions as mandated under SB 345. This was an iterative process between the boards and we have found the experience sufficiently valuable that some indicators we did not use for state performance assessment, are being used for our internal assessment process. The funding relationships in SB 345 have been significant in keeping all of the institutions of post-secondary education together under one umbrella. We fully support and embrace a comprehensive state-wide data system to improve decision making at our institutions and to assist in analyzing our success.

In the spirit of cooperation, we are proposing amendments which would retain the 2 percent incentive funding for quality performance grants; allow for institutional accountability to the state board; and, clarify the state board's consultative and collaborative relationship with institutional boards. All of these can be accomplished within the existing regulatory environment.

Background:

It is important to be clear about what has brought us here today. Over four years ago (prior to the passage of SB 345 in 1999), Washburn University began implementation of a method of providing distance education to place-bound students in areas without access to four-year institutions or programs. In essence, this PLAN 2 + 2 was a delivery system to provide upper division internet courses from Washburn University to be supplemented by lower division or upper division course work appropriate to the program offered by community colleges or other four-year institutions. The program followed all then existing and current KBoR procedures for distance education programs and was piloted with Kansas City Kansas Community College and Johnson County Community College. Later, the program was extended statewide.

Last spring, the presidents of the KBoR governed campuses objected to the delivery mechanisms and over the past year the two boards searched for a resolution. What was finally proposed was for the KBoR to impose degree standards for all institutions, but the Washburn Board found this in conflict with its governance authority under K.S.A. 13-13a16-19 (copy attached). Also attached is an opinion by former state Senator Tim Emert addressing the degree granting issue.

The KBoR adopted a proposal to require 54 upper division hours in all baccalaureate programs offered at all public universities, including Washburn. This particular recommendation is currently being reconsidered based upon information coming from the campuses. However, the "process" which led to its adoption is clearly indicative of one of the major concerns we have thus far with the implementation of SB 345 -- the lack of a consistent and coherent set of processes and procedures for bringing issues forward, considering them in a cooperative and collaborative fashion, and taking appropriate action.

The Chair and Vice-Chair of the Washburn Board of Regents, on November 14, 2001, in a spirit of compromise offered to phase out the programs in question and adopt complementary or parallel policies if the KBoR were willing to avoid a confrontation by not attempting to apply degree granting standards to Washburn. The KBoR rejected the compromise.

Simultaneous with this discussion, the NORED consultant's report was released in November along with its 31 recommendations. On December 6, 2001 there appeared a set of proposed amendments to SB 345 about which the Kansas Board of Regents were expected to take action on a conference call. The KBoR, after receiving faxed communications from Washburn and the community colleges, postponed such action until January and requested the staff begin to work with the various sectors to secure agreement on these amendments. Such meetings occurred in January and the Board again delayed action until February. Washburn had one meeting with the staff which resulted in no substantive changes to the proposed amendments. There never was a meeting which included all of the affected parties in the same room at the same time negotiating over the same set of proposals. Negotiations were sequential and isolated and were not concluded with the community colleges until the day the amendments were adopted on February 14. It is these amendments which are before you in SB 647.

Washburn University's Position:

Washburn University has long supported Legislative efforts to provide greater coordination for post-secondary education. We supported initiatives in 1998 and in 1999 supported the passage of SB 345. We, along with others, recognized that as a new structure was implemented some changes to SB 345 might be required, but nonetheless recognized it as a visionary compromise sufficient to break an organizational log jam which had existed in Kansas higher education for over twenty years. Those of you who were involved and supported this legislation are to be commended. Even those who of you who were not initially supportive are to be commended because we know that every one on this committee as well as many of your colleagues in the House and Senate have worked very hard to ensure a successful implementation of SB 345. We, too, share your desire to have this transitional legislation successfully implemented.

That is why we question the need for these amendments at this time. Most of what the Kansas Board of Regents says it wishes to accomplish we feel can be accomplished under the existing provisions of SB 345. We have a number of specific concerns regarding the proposals contained in SB 647 beyond the general issues of timing and process. We believe the proposed amendments go well beyond clarifying and implementing the provisions of SB 345 and expand control over coordinated institutions beyond what was originally intended.

- The proposed amendments contain a fundamentally flawed budget system which requires all approved funding increases to be appropriated to the KBoR for distribution to the institutions based upon a judgment by the KBoR of said institutions' compliance with a negotiated "performance agreement." This includes incremental base funding increases. No illustrations were provided for performance agreements and there are no restrictions on KBoR discretion in allocating the funds among institutions. Failure to "negotiate" a "performance agreement" will deny an institution any increase in state funds.
- The proposals allow the KBoR approval over all programs offered by coordinated institutions rather than approving those programs for state funding purposes as is currently the case in SB 345. Given that the coordinated institutions receive less than one-fifth of their funding from the state, it seems inappropriate for the state Board to control all programs. Approving programs for state funding purposes ensures the interests of the state are met while recognizing the need for community responsiveness at the institutional level.
- The proposals exempt the KBoR from the Administrative Procedures Act with respect to adoption of rules and regulations for all coordinated and governed institutions. In the past, with very narrow exceptions, the KBoR has been subject to the Administrative Procedures Act for purposes of setting rules and regulations at the six state educational institutions. Exempting the KBoR from the Administrative Procedures Act for purposes of its dealings with 30 coordinated institutions seems to run counter with the intent of SB 345 to ensure appropriate processes for effective coordination.

You have heard the Kansas Board of Regents talk about vision and speak to accountability. In concept, we are in complete agreement. We are concerned, however, with a vision that is unitary and univocal. We are concerned with an accountability system which must be punitive in order to reward. Their own language in the attached February 8 e-mail is they need to be able to enforce "compliance" with Board policies. They are proposing to do this through the performance agreements which require a negotiated agreement under the threat of the denial of any new state resources. As stated, a performance agreement would make funding "contingent on 'compliance with Board policies.'" This extends far beyond what we believe was intended for SB 345. It places under the authority of the Kansas Board of Regents powers which they did not possess as a governing entity over the six state educational institutions and gives them virtually unlimited ability to circumvent existing legislation and control locally and/or privately funded activities through punitive funding allocations.

Proposed Amendments to SB 647:

To address the issues raised here regarding the proposals contained in SB 647, we wish to make a contribution to this process and will offer amendments which we think accomplish our mutual goals.

Our proposals recognize the desire of the KBoR to have resources at its disposal to provide incentives for institutional behavior. We think a modification to the SB 345 framework can provide such a mechanism. We agree with the concept of performance incentives and formal agreements for distribution of incremental financial performance grants. That, too, can be incorporated within the existing framework of SB 345. We continue to think the Kansas Board of Regents should approve programs for state funding purposes. And, finally, we believe the Administrative Procedures Act should continue to apply to the KBoR as they attempt to govern and coordinate 36 institutions.

We believe our amendments contribute to the coordinated system envisioned in SB 345. We urge your favorable consideration of these proposed amendments.

Atts.

accessKansas Home > Government > Legislative > Kansas Statutes > Kansas Statute No. 13-13a16

13-13a16

Chapter 13.--CITIES OF THE FIRST CLASS
PART L.--GOVERNMENT BY MAYOR AND COUNCIL AND GENERAL LAWS
Article 13a.--MUNICIPAL UNIVERSITIES

13-13a16. Courses of study and degrees; regulation by regents; disposition of fees. The board of regents of said municipal university shall have the power to determine all questions of departments or schools to be established within said municipal university, all courses to be offered, degrees to be conferred, all questions of organization or discipline, and the fees or charges to be paid by those availing themselves of the privileges or opportunities of said university, and to delegate the execution of such details as said board may see fit to the duly authorized agents of said board.

The board shall have the right, after conferring with the president and faculty, to confer all honors, diplomas, certificates and degrees suitable to institutions of the same class. The board shall have the power upon such terms and conditions as it may prescribe, to furnish special courses and courses in vocational education subjects and civic administration and other educational advantages, including the admission of nonmatriculated students within the college buildings or elsewhere, and may grant suitable certificates and vocational education diplomas and degrees to such students as shall have completed the course of study so prescribed. All moneys received, as provided by this section, shall be credited to the general fund of said university, and all expenses incurred in pursuance of this section shall be met from said general funds, subject to the regulation of said board of regents.

History: L. 1925, ch. 111, § 16; L. 1976, ch. 87, § 15; July 1.

6-5



accessKansas Home > Government > Legislative > Kansas Statutes > Kansas Statute No. 13-13a19

13-13a19

Chapter 13.--CITIES OF THE FIRST CLASS
PART L.--GOVERNMENT BY MAYOR AND COUNCIL AND GENERAL LAWS
Article 13a.--MUNICIPAL UNIVERSITIES

13-13a19. Additional powers and authority; construction of act. All other powers and privileges necessary for the discharge of the functions of said municipal university which are not herein prescribed or limited are hereby granted, providing they are not in conflict with other specific legislation. The provisions of this act and all grants of power, authority or rights herein made to boards of regents created under the provisions of this act shall be liberally construed and all incidental powers necessary to carry into effect the provisions of this act, are hereby expressly granted to and conferred upon such boards of regents.

History: L. 1925, ch. 111, § 19; L. 1976, ch. 87, § 18; July 1.

SCOVEL, EMERT, HEASTY & CHUBB

Attorneys at Law

304 N. 6th - P. O. Box 747

Independence, KS 67301-0747

1-620-331-1800

FAX 1-620-331-1807

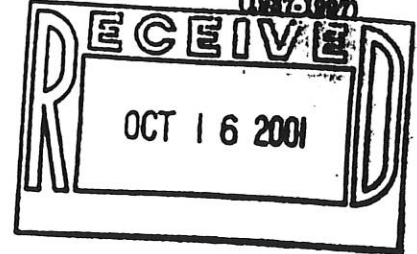
E-mail: sehc-law@swbell.net

TIMOTHY R. EMERT
JEFFREY A. CHUBB
Partners

KEVIN M. SLOAN
Associate

ROBERT K. SCOVEL
DERRICK L. SCHMIDT
Of Counsel

MONTE K. HEASTY
(1997-1997)



October 13, 2001

Mr. Kenneth P. Hackler
University Counsel
Washburn University
1700 S.W. College Avenue
Topeka, Kansas 66621

Dear Mr. Hackler:

You requested my opinion on the pending proposal by the Kansas Board of Regents to impose degree requirements that would bind Washburn University even if those requirements were in conflict with requirements promulgated by the Washburn Board of Regents. Specifically, you requested my opinion on whether the Higher Education Coordination Act (1999 Senate Bill 345) established the primacy of the Kansas Board of Regents in setting degree requirements for Washburn University. As a principal author of Senate Bill 345, I will limit the scope of this opinion to that specific question and will not address other areas of law that may govern the relationship between Washburn University and the Kansas Board of Regents.

We did not intend for Senate Bill 345 to subordinate the Washburn Board of Regents' authority to establish degree requirements to that of the Kansas Board of Regents. In support of that statement, I offer the following in addition to my own clear recollection of our legislative intent:

1. In enumerating the powers of the new Kansas Board of Regents, we did not enumerate authority to determine degree requirements. *See New Section 6, Senate Bill 345, As Amended by House Committee of the Whole.* The bill's silence on that point is consistent with our desire not to alter the previously existing relationship between the Washburn Board of Regents and the Kansas Board of Regents in regard to authority to determine degree requirements.
2. Similarly, insofar as we did wish to alter the relationship between the Kansas Board of Regents and the Washburn Board of Regents with respect to certain subject matter, we did so expressly. For example, we expressly altered Washburn's authority to receive its tuition for out-district students. *See, e.g., Sections 70-73, Senate Bill 345, As Amended by House Committee of the Whole.*

6-7

Mr. Kenneth P. Hackler

Page 2

October 15, 2001

The authority to establish degree requirements is a principal function of university governance. It is not an ancillary power, nor was it an ancillary consideration of the legislature in drafting Senate Bill 345. Had we intended to alter the relationship between the Kansas Board of Regents and the Washburn Board of Regents regarding authority to establish degree requirements, we would have done so expressly. We would not have relied on general language regarding "coordination" to effect such a large change in public policy. I would hope that our choice of language in Senate Bill 345 would not be construed to require or authorize such major changes in public policy where no such intent existed.

I appreciate your calling this matter to my attention. If I may be of further assistance, please let me know.

Yours very truly,

SCOVEL, EMERT, HEASTY AND CHUBB



Timothy R. Emert

TRE:jc

6-8

Subject: [Fwd: 345 Amendments]
Date: Fri, 08 Feb 2002 17:37:28 -0600
From: Jerry Farley <jfarley@washburn.edu>
To: David Monical <monical@washburn.edu>

Hello David,

What is this!!!!!!
Force compliance w/ Board policies!!
Every leader agrees!!!

What is going on?

Get this to John and to Hal and Chuck.

We should also prepare our response to the last revision from Mary since it does not now appear that there will be substantive changes.

I will talk w/ you on Monday.

Subject: 345 Amendments

Date: Fri, 08 Feb 2002 15:37:29 -0600

From: "Kim Wilcox" <kwilcox@ksbor.org>

To: <dickh@ftscott.cc.ks.us>, <masterson@allenc.net>, <lawv@barton.cc.ks.us>, <jvietti@butler.buccc.cc.ks.us>, <gknox@cloud.cc.ks.us>, <ary@colby.cc.ks.us>, <jimison@cowley.cc.ks.us>, <mcatee@cowley.cc.ks.us>, <rkburke@dccc.cc.ks.us>, <sseybold@dccc.cc.ks.us>, <Schallka@esumail.emporia.edu>, <ehammond@fhsu.edu>, <cscott@fhct.kansas.net>, <cballantyne@gccc.cc.ks.us>, <jolind@gw.kckps.k12.ks.us>, <dreist@highland.cc.ks.us>, <bergere@hutchcc.edu>, <porters@hutchcc.edu>, <jhansen@indy.cc.ks.us>, <drbass@inetserver.ccc.cc.ks.us>, <ccarsen@jccc.net>, <twhite@jccc.net>, <rmcwhorter@kats.tec.ks.us>, <preS@ksu.edu>, <ronaldf@labette.cc.ks.us>, <kclouse@mail.nwktc.org>, <ddunn@matc.net>, <breeves@ncktc.tec.ks.us>, <santes@nekatech.net>, <jhill@neosho.cc.ks.us>, <edwardk@pcc.cc.ks.us>, <WILLIAMW@pcc.cc.ks.us>, <tbryant@pittstate.edu>, <marlont@raven.ccc.cc.ks.us>, <jgrote@sccc.net>, <tomburke@toto.net>, <rhemenway@ukans.edu>, <cckluge@usd259.net>, <lmallory@usd259.net>, <jerry.seim@usd305.com>, <jgarvie@usd480.net>, <jfarley@washburn.edu>, <don.beggs@wichita.edu>

CC: <jwempe@alltel.net>, <sclark@clarkinvestment.com>, "Amanda Golbeck" <agolbeck@ksbor.org>, "Betty Fincher" <bfincher@ksbor.org>, "Dick Carter" <dcarter@ksbor.org>, "Marv Burris" <mburris@ksbor.org>, "Mary Prewitt" <mprewitt@ksbor.org>, <fkerr1@kscable.com>, <dwynn@mvplaw.com>, <lferguson@networksplus.net>, <eagles2@pld.com>, <cbsc@swbell.net>, <billdoc@usbarkcity.com>, <jandeb@valu-line.net>

Institutional CEO's,

I wanted to fill everyone in on how the discussions are going regarding the SB345 amendments. As you know, we've met several times with various groups discussing their concerns and most of those groups are continuing the discussions among themselves. Within that context, we now appear to be at an important decision-point.

>From the beginning, the amendments had two primary goals:

6-9

- (1) Clearly delineating the responsibility of institutions for complying with Board policies
- (2) Providing a framework for building a new future for our higher education system.

Most of our discussions have centered on the latter of these two goals; the one that holds the greatest promise for us all. In the course of these discussions, we have debated the role of "performance" vs. "operational" funding, the advantages and disadvantages of KBOR approval of individual courses, and the role of Commissions, among other things. The debate has been helpful, but it has been hampered by an uncertain willingness to craft an, as yet, uncharted future. After several weeks of discussion, there remains uncertainty about our readiness to move ahead in creating that future. I am anxious to continue the discussions, but am facing those discussions with a different perspective than I once had.

In the meantime I plan to offer to the Board, next week, two options. The first option is essentially what Mary forwarded earlier in the week. That version incorporates both the "compliance" and "vision" goals. Those two concepts are integrated into the development of performance agreements between the Board of Regents and local boards (primarily, page 6 of the draft). The second option focuses only on the "compliance" goal and consists of the addition of the single statement that funding is contingent on "compliance with Board policies". Nearly every leader in the state has indicated to me at some time or another that this is already their assumption. Thus, I anticipate the second option should be widely acceptable.

We've made significant progress toward creating a consensus on these amendments, but I recognize that a full consensus may never be achievable. Nonetheless, I am determined to keep forging ahead and will encourage the Board to adopt one of these two options next week.

Kim

<p>Jerry Farley <jfarley@washburn.edu> President Washburn University</p>
--



WASHBURN UNIVERSITY

Office of the President

**Testimony to the
Senate Education Committee
regarding proposed amendments to Senate Bill 647
by
Jerry B. Farley, President
Washburn University
March 25, 2002**

Mr. Chairman, Members of the Committee:

Members of the Washburn University Board of Regents have a number of concerns with Senate Bill 647 and its proposed amendments to the Higher Education Coordination Act. Rather than opposing the bill, we are proposing amendments to Senate Bill 647 which, in our judgment, accomplish the stated goals of the Kansas Board of Regents, while at the same time, preserving the spirit and intent of coordination and cooperation as originally embodied in Senate Bill 345.

The attached balloon amendments to SB 647 outline our suggested changes. They are as follows:

- On page 4, amendatory language to provide that performance agreements and quality performance grants do not apply to "all new state funds" but only to those funds specifically appropriated to the Kansas Board of Regents for allocation to the institutions as quality performance grants. The Kansas Board of Regents' proposal abandons the Legislature's concept proposing 2% for quality performance grants and is punitive rather than providing incentives. No institution can be rewarded with additional funding under their proposal unless another institution receives reduced funding. Further, by allowing the Kansas Board of Regents total control over the allocation of "all new state funds" the Legislature would be giving this appointed board an authority which currently resides with the Legislature itself in the appropriations process. No other executive agency has this level of control over other state and non-state organizations.

The concept abandoning the 2% incentive funding being proposed is fundamentally flawed as it will negatively impact institutions' base budget funding. Should an institution not receive or receive a reduced allocation of new state funds due to its not fulfilling its performance agreement, that base funding is forever lost to the institution. Because all of our institutions are driven by personnel costs, such a reduction in base funding increases can be devastating to an institution's faculty and staff. A lack of funding in one year simply multiplies the negative impact in the future.

Our proposed amendments recognize, as did the Legislature, that incentive funding should be positive and not negative. We are recommending that the 2% performance funding originally envisioned in Senate Bill 345 be appropriated directly to the Kansas Board of Regents for allocation to the institutions pursuant to fulfilling performance agreements. To accomplish this, amendments also will be required to K.S.A. 2001 Supp. 72-4480 and K.S.A. 76-771 to include the technical and state educational institutions. This retains the concept that incentive funding should be in addition to base levels of funding appropriated to each of our institutions and would provide the Kansas Board of Regents with its desired mechanism to provide incentives for institutions to direct institutional behaviors. Such funding is scalable at the margin and is a non-base funded addition to institutions for performing in a manner deemed appropriate by the Kansas Board of Regents. Such funding does not take away funding from any institution and rewards positive behaviors. Although there is a lack of a unified funding model and a coherent budget process, this proposal nonetheless enables the Legislature to continue its funding commitments in Senate Bill 345 while providing a more coherent basis for the Kansas Board of Regents to direct and reward institutional behaviors.

The recommended 2% funding is arbitrary, although in conformance with what was originally established in SB 345. Because the funds go to the Kansas Board of Regents and are not institutional specific, no institution should automatically assume it will receive 2% nor should the Kansas Board of Regents be expected to grant each institution 2%. Dollars allocated to and among the institutions can and should vary based upon performance and behavior.

- We are proposing on page 2 several other amendments. In lines 32 to 34, we wish to continue the existing language which would have the Kansas Board of Regents approve or disapprove for state funding purposes proposed educational programs. We have deleted their language in lines 35 to 37 because it is redundant with the language in lines 22 to 24 with respect to developing a comprehensive plan. A comprehensive plan which does not provide for coordinating program offerings would be something less than comprehensive. We also are amending this section to make it clear that the plan is developed in consultation with institutional governing boards and that the plan take into account both institutional as well as the state's higher education needs. We are proposing sections which define "institutional role" and "performance agreement" which were not defined in their original proposal but which links it to the quality performance grant as we have proposed. We are amending line 20 to ensure that the language is parallel with that of line 11 which has the Kansas Board of Regents being an "advocate" rather than being "THE representative."

- On page 12 of the bill, strike the language which would exempt the Kansas Board of Regents from following the Administrative Procedures Act for purposes of adopting rules and regulations affecting coordinated institutions. Following administrative procedures for the adoption of rules and regulations was a statutory provision for the Kansas Board of Regents when they governed six institutions and we see no reason they should be exempted from these provisions when coordinating 30 institutions which are not state agencies. Retaining rules and regulations procedures ensures the coordinated institutions will have a public process and fair hearing on issues which affect their operations.
- Finally, a modest change on page 1 of the bill in line 26 is to undelete "Washburn University of Topeka" and add the word "or" preceding "any municipal university established under the laws of this state." Although in doing so we need to call to your attention that the statutes enabling the creation of another municipal university were repealed many years ago and Washburn University is alone in this category.

We think these proposed amendments speak to the spirit and intent of Senate Bill 345 and will actually accomplish most of what the Kansas Board of Regents has publicly stated is their intentions with the introduction of Senate Bill 647. However, we must acknowledge one final concern with respect to their proposed amendments. Throughout our discussions with the Kansas Board of Regents over the last six months, we have frequently heard in various forms the concept of "enforcing compliance with board policies." How board policies are set is not defined and no process has been developed to allow for a collaborative and productive policy discussion. In a February 8 e-mail to all institutional presidents and to the Board, it was made clear that funding "is contingent on compliance with Board policies." We ask you to consider as you review Senate Bill 647 and our proposed amendments, whether adopting SB 647 as introduced will create a situation where no member of the Legislature can hear any dissention with respect to Kansas Board of Regents policies for fear of an institution losing funding. We do not think this is what you intended when you passed the Higher Education Coordination Act and we think the amendments which we have brought forward to you today are in keeping with the spirit and intent of what you adopted in 1999.

We urge your support for our amendments.

Att.

4-2

SENATE BILL No. 647

By Committee on Ways and Means

3-14

AN ACT concerning the Kansas higher education coordination act; relating to the financing of postsecondary educational institutions and the powers, duties and functions of the state board of regents; amending K.S.A. 77-415 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 any~~ *municipal university established under the laws of this state.* undelete and add "or"

(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 not include within its meaning any school or educational institution specifically exempted from the definition of proprietary school by the

52

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;~~

(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;~~

(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;~~

(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 appropriated for funding of postsecondary educational institutions~~

(1) "Performance Agreement" means the institutional improvement plan of each post-secondary educational institution for determining the receipt of a quality performance grant described in K.S.A. 2001 Supp. 71-620, 72-3202d, 72-4480, 72-6563 and 76-771, and amendments thereto.
(m) "Institutional Role" means the designation of a postsecondary educational institution, as a community college, technical college, area vocational education school, comprehensive university or research university.

an advocate of the interests of all institutions

in consultation with the governing boards of the post-secondary educational institutions taking into account both the institutional needs and the state's higher education needs, ly approved

undelete

undelete all except the word "present"

insert apostrophe following the s in 'institutions' and insert the words "quality performance grant"

~~in accordance with legislative directives, except as provided in subsection (a) 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

1 that the state board determines should be implemented; and (3) shall
 2 select from among the indicators approved for implementation those in-
 3 dicators that will become determinants for the allocation of state moneys
 4 on the basis of performance. The indicators selected may vary among the
 5 *postsecondary educational* institutions and among institutional sectors
 6 and, if feasible, shall include indicators developed and adopted by the
 7 governing bodies of each postsecondary educational institution based on
 8 the needs of each such *postsecondary educational* institution.

9 (b) During the 2001 fiscal year, the postsecondary educational insti-
 0 tutions, including the municipal university, shall develop institutional im-
 1 provement plans showing how they will implement the performance in-
 2 dicators applicable to their institution and how they will measure
 3 performance on the basis of each indicator. Institutional improvement
 4 plans shall be revised and submitted to the state board of regents by each
 5 institution at least every three years. The *state* board of regents shall
 6 provide technical assistance to institutions in the development, imple-
 7 mentation, and revision of their improvement plans.

8 (c) Commencing on July 1, 2001, institutional improvement plans
 9 shall be implemented for each postsecondary educational institution, in-
 0 cluding the municipal university. Each *postsecondary educational* insti-
 1 tution shall begin the data collection, measurement, or other documen-
 2 tation necessary in order for its performance to be evaluated with regard
 3 to each indicator.

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

negotiate
 in consultation with the governing board of each post-secondary
 educational institution

1 (e) Commencing on July 1, 2005, each *postsecondary educational* in-
 2 stitution's receipt of ~~new state funds~~ shall be contingent on achieving
 3 compliance with its performance agreement. As used in this subsection,
 4 "new state funds" means that amount of state funds by which the amount
 5 received by a postsecondary educational institution for a fiscal year ex-
 6 ceeds the amount received by that postsecondary educational institution
 7 for the preceding fiscal year. The state board shall determine the amount
 8 of new state funds to be received by each *postsecondary educational* in-
 9 stitution, taking into account the postsecondary educational institution's
 0 level of compliance with its performance agreement and the funds avail-
 1 able for distribution. ~~Any new state funds received by a postsecondary~~
 2 ~~institution pursuant to a performance agreement shall be~~
 3 ~~deemed to be part of the state funds received in the preceding fiscal year~~

(e) In each fiscal year, commencing with the 2006 fiscal year, each
 postsecondary educational institution shall be eligible to receive a
 quality performance grant from such funds appropriated, by computing
 2% of the total state funds for operating the postsecondary educational
 institutions in the preceding fiscal year, to the state board for such
 purposes.

a quality performance grant
 its
 as a quality performance grant

~~for the purpose of determining new state funds for the postsecondary educational institution pursuant to a performance agreement 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.~~

a quality performance grant for that fiscal year.

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

1 programs and courses of instruction;

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

6 (5) review requests of community colleges, technical colleges and vo-
7 cational education schools for state funding and formulate recommen-
8 dations thereon;

9 (6) identify core indicators of quality performance for community col-
0 leges, technical colleges and vocational education schools;

1 (7) develop each year a policy agenda for community colleges, tech-
2 nical colleges and vocational education schools;

3 (8) conduct continuous studies of ways to maximize the utilization of
4 resources available for community colleges, technical colleges and voca-
5 tional education schools and formulate recommendations for improve-
6 ment; and

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

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

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

0 (b) The commission for public universities shall:

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

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

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

6 (4) review existing educational programs and courses of instruction
7 at the public universities and evaluate the educational and economic jus-
8 tification, or lack thereof, for such programs and courses;

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

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

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

2 (8) conduct continuous studies of ways to maximize the utilization of
3 resources available for public universities and formulate recommenda-
4 tions for improvement; and

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

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

9 Sec. 7. K.S.A. 2001 Supp. 74-3205d is hereby amended to read as
0 follows: 74-3205d. (a) The commission for higher education coordination
1 shall meet at Topeka at least quarterly in each year on dates fixed by the
2 commission. Special meetings may be held upon the call of the chairper-
3 son of the commission or upon petition to the chairperson by the other
4 two members of the commission. The date and place of all special meet-
5 ings shall be designated in the call. Two members of the commission shall
6 constitute a quorum for the transaction of business but one member may
7 adjourn any regular or special meeting to a definite time and place.

8 (b) The commission for higher education coordination shall:

9 (1) Conduct continuous review and evaluation of the comprehensive
0 plan for coordination of higher education and make recommendations as
1 deemed necessary and appropriate for amendment, revision or modifi-
2 cation of the plan;

3 (2) review existing and proposed educational programs, courses of
4 instruction, and program and course locations and make recommenda-
5 tions to the state board with respect to the coordination of such programs,
6 courses and locations;

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

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

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

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

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

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

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

2 (c) *On June 30, 2003, the provisions of subsection (a) of this section*
3 *expire and shall be of no force and effect. On and after June 30,*

1 ~~the powers and duties of the commission for higher education co-~~
 2 ~~ordination shall be powers and duties of the state board of regents and~~
 3 ~~the references in subsection (b) to the commission for higher education~~
 4 ~~coordination shall mean the state board of regents. On and after June 30,~~
 5 ~~2003, the state board shall have authority to establish and organize such~~
 6 ~~commissions, committees, advisory councils or other groups as it shall~~
 7 ~~deem necessary and appropriate to the fulfillment of its constitutional and~~
 8 ~~statutory responsibilities.~~

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

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

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

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

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

9 (5) Each community college which is not an officially designated area
 0 vocational school shall receive an amount equivalent to the difference
 1 between credit hour state aid received in the 1999 fiscal year for credit
 2 hours in any subject or course approved as a vocational education subject
 3 or course and 1½ times the amount of credit hour state aid received in
 4 the 1999 fiscal year for credit hours in any subject or course approved as
 5 a vocational education subject or course. The amount determined under
 6 this provision shall be distributed in equal installments in the 2001
 7 through 2004 fiscal years as a part of the community college's operating
 8 grant, but shall not be subject to the provisions of K.S.A. 71-204, and
 9 amendments thereto.

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

7-12

(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:

Determine the average amount of moneys from the state general

1 funds expended per FTE lower division undergraduate student in the
2 preceding fiscal year at the regional state educational institutions;

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

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

2 (b) In each fiscal year, commencing with the 2003 fiscal year, the
3 university is eligible to receive a quality performance grant from the state
4 general fund. If the state board determines that the university has dem-
5 onstrated effectiveness in complying with its mission and goals statement
6 and has met or exceeded the core indicators of quality performance iden-
7 tified and approved for the university by the state board, the university
8 shall receive a quality performance grant in an amount which shall be
9 determined by the state board by ~~computing 2% of the amount of the~~
0 ~~operating grant the university received in the preceding fiscal year. The~~
1 ~~computed amount is the amount of the quality performance grant the~~
2 ~~university shall receive for the fiscal year.~~

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

8 (2) As used in this section, the term regional state educational insti-
9 tutions means Emporia state university, Fort Hays state university and
0 Pittsburg state university and the term lower division undergraduate stu-
1 dent means a freshman or sophomore.

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

6 Sec. 10. K.S.A. 77-415 is hereby amended to read as follows: 77-415.
7 As used in K.S.A. 77-415 through 77-437, and amendments thereto, un-
8 less the context clearly requires otherwise:

9 (1) "State agency" means any officer, department, bureau, division,
0 board, authority, agency, commission or institution of this state, except
1 the judicial and legislative branches, which is authorized by law to prom-
2 ulate the rules and regulations concerning the administration, enforcement
3 and interpretation of any law of this state.

(2) "Person" means firm, association, organization, partnership, business trust, corporation or company.

(3) "Board" means the state rules and regulations board established under the provisions of K.S.A. 77-423, and amendments thereto.

(4) "Rule and regulation," "rule," "regulation" and words of like effect mean a standard, statement of policy or general order, including amendments or revocations thereof, of general application and having the effect of law, issued or adopted by a state agency to implement or interpret legislation enforced or administered by such state agency or to govern the organization or procedure of such state agency. Every rule and regulation adopted by a state agency to govern its enforcement or administration of legislation shall be adopted by the state agency and filed as a rule and regulation as provided in this act. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in a state agency decision upon or disposition of a particular matter as applied to a specific set of facts does not render the same a rule and regulation within the meaning of the foregoing definition, nor shall it constitute specific adoption thereof by the state agency so as to be required to be filed. A rule and regulation as herein defined shall not include any rule and regulation which: (a) Relates to the internal management or organization of the agency and does not affect private rights or interest; (b) is an order directed to specifically named persons or to a group which does not constitute a general class and the order is served on the person or persons to whom it is directed by appropriate means. The fact that the named person serves a group of unnamed persons who will be affected does not make such an order a rule and regulation; (c) relates to the use of highways and is made known to the public by means of signs or signals; (d) relates to the construction and maintenance of highways or bridges or the laying out or relocation of a highway other than bidding procedures or the management and regulation of rest areas; (e) relates to the curriculum of public educational institutions or to the administration, conduct, discipline, or graduation of students from such institutions or relates to parking and traffic regulations of state educational institutions under the control and supervision of the state board of regents; (f) relates to the emergency or security procedures of a correctional institution, as defined in subsection (d) of K.S.A. 75-5202, and amendments thereto; (g) relates to the use of facilities by public libraries; (h) relates to military or naval affairs other than the use of armories; (i) relates to the form and content of reports, records or accounts of state, county or municipal officers, institutions, or agencies; (j) relates to expenditures by state agencies for the purchase of materials, equipment, or supplies by or for state agencies, or for the printing or duplicating of manuals for state agencies; (k) establishes personnel standards, job clas-

1 communications, or job ranges for state employees who are in the classified civil
 2 service; (l) fixes or approves rates, prices, or charges, or rates, joint rates,
 3 fares, tolls, charges, rules, regulations, classifications or schedules of com-
 4 mon carriers or public utilities subject to the jurisdiction of the state
 5 corporation commission, except when a statute specifically requires the
 6 same to be fixed by rule and regulation; (m) determines the valuation of
 7 securities held by insurance companies; (n) is a statistical plan relating to
 8 the administration of rate regulation laws applicable to casualty insurance
 9 or to fire and allied lines insurance; (o) is a form, the content or substan-
 10 tive requirements of which are prescribed by rule and regulation or stat-
 11 ute; (p) is a pamphlet or other explanatory material not intended or de-
 12 signed as interpretation of legislation enforced or adopted by a state
 13 agency but is merely informational in nature; (q) establishes seasons and
 14 fixes bag, creel, possession, size or length limits for the taking or posses-
 15 sion of wildlife, if such seasons and limits are made known to the public
 16 by other means; or (r) establishes records retention and disposition sched-
 17 ules for any or all state agencies, ~~or (s) relates to the exercise of any duty,~~
 18 ~~function or authority of the state board of regents under K.S.A. 74-3202e,~~
 19 ~~and amendments thereto, with respect to any postsecondary educational~~
 20 ~~institution, as defined in K.S.A. 74-3201b, and amendments thereto.~~

21 (5) "Environmental rule and regulation" means:

22 (A) A rule and regulation adopted by the secretary of agriculture, the
 23 secretary of health and environment or the state corporation commission,
 24 which has as a primary purpose the protection of the environment; or

25 (B) a rule and regulation adopted by the secretary of wildlife and
 26 parks concerning threatened or endangered species of wildlife as defined
 27 in K.S.A. 32-958 and amendments thereto.

28 Sec. 11. K.S.A. 77-415 and K.S.A. 2001 Supp. 71-620, 72-6503, 74-
 29 3201b, 74-3202c, 74-3202d, 74-3205a, 74-3205b, 74-3205c and 74-3205d
 30 are hereby repealed.

31 Sec. 12. This act shall take effect and be in force from and after its
 32 publication in the statute book.
 33

K.S.A. 2001 Supp. 72-4480 is hereby amended to read as follows: 72-4480.

(a) The state board of regents shall identify and approve core indicators of quality performance for vocational education schools and technical colleges and shall establish and implement a data management system that includes a process and format for collecting, aggregating and reporting common and institution-specific information documenting effectiveness of the schools and colleges in meeting the role and mission thereof.

(b) In each fiscal year, commencing with the 2003 fiscal year, each vocational education school and technical college is eligible to receive a quality performance grant from the state general fund. If the state board determines that the school or college has demonstrated effectiveness in complying with its role and mission statement and has met or exceeded the core indicators for vocational educational schools and technical colleges identified and approved by the state board, the school or 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 postsecondary aid the school or college received in the preceding fiscal year. The computed amount is the amount of quality performance grant the school or college shall receive for the fiscal year.~~

(c) The distribution of the appropriation for quality performance grants to vocational education schools and technical colleges entitled to such grants shall be made at a time to be determined by the state board. The state board shall certify to the director of accounts and reports the amount due to each vocational education school and technical college entitled to a grant, and the director of accounts and reports shall draw a warrant upon the

state treasurer in favor of the school or college for such amount. Upon receipt of the warrant, the treasurer of the school or college shall credit the amount of the warrant to the general fund.

K.S.A. 76-771 is hereby amended to read as follows: 76-771. (a) The state board of regents shall identify and approve core indicators of quality performance for the state educational institutions and shall establish and implement a data management system that includes a process and format for collecting, aggregating and reporting common and institution-specific information documenting effectiveness of the institutions in meeting the role and mission thereof.

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