

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 1:37 p.m. on March 9, 2004 in Room 123-S of the Capitol.

All members were present:

Committee staff present:

Carolyn Rampey, Legislative Research
Kathie Sparks, Legislative Research
Debra Hollon, Legislative Research
Theresa Kiernan, Office of the Revisor of Statutes
Judy Steinlicht, Committee Secretary

Conferees appearing before the committee:

Theresa Kiernan, Revisor of Statutes
Richard Hoffman, Director of Kaw Area Technical School
Reginald Robinson, President & CEO, Kansas Board of Regents
Joan Wagnon, Secretary of Revenue

Others attending:

See Attached List

HB2795—Compulsory school attendances; exemption for students in postsecondary educational institutions

Theresa Kiernan, Revisor of Statutes, gave the committee a brief overview of **HB2795**.

Richard Hoffman, Director of Kaw Area Technical School (KATS), told the committee that he started as director of KATS in August 2003, and in October 2003, he was notified that the U.S. Department of Education would be conducting an audit. He was informed that KATS was out of compliance based on the fact that the school was accepting students, who had not graduated from high school or received their GED, and further, these students had not passed the age as set forth by law since 1997 when the compulsory age in Kansas was changed from 16 to 18. As a result, KATS was asked to pay back \$882,445 in financial aid that was given to qualified students, but they were not allowed to spend the money with KATS because KATS did not meet the guidelines. KATS has never been sited for awarding ineligible students with financial aid. The Federal regulation accepts whatever the state sets as its own guidelines. Mr. Hoffman believes **HB2795** will fix the problem for the entire state and asks for support. (Attachment 1)

Reginald Robinson, President & CEO, Kansas Board of Regents, told the committee it was the elevation of age from 16 to 18 that triggered the issue. KATS has legal council that is on top of the issue and they are trying to get clarification from the U.S. Department of Education that the language in **HB2795** will satisfy the problem. He hopes to get some clarity prior to the end of session. (no attachment)

HB2493—Education; concerning private and foreign postsecondary schools

Theresa Kiernan, Revisor of Statutes, presented balloon amendments to **HB2493** to make technical changes and clarifications. (Attachment 2)

HB2795—Compulsory school attendances; exemption for students in postsecondary educational institutions

Senator Vratil proposed wording to amend **HB2795** by adding a definition whereby “regularly enrolled” we would be defined to mean 5 hours or more per day, and then use the term “regularly enrolled” in section 1 (a) which is the compulsory attendance statute and also in section 1 (b)(3) so that it would say students attending both a postsecondary institution and a K-12 school would be “regularly enrolled” and concurrently enrolled which was bring in the 5 hour concept.

CONTINUATION SHEET

MINUTES OF THE SENATE EDUCATION COMMITTEE at 1:37 p.m. on March 9, 2004 in Room 123-S of the Capitol.

Senator Bunten made a motion to amend **HB2795** with the wording described by Senator Vratil. Seconded by Senator Teichman. Motion carried.

Senator Schodorf made a motion to amend **HB2493** into **HB2795** with the technical amendments and clarification proposed by Theresa Kiernan. Seconded by Senator Emler. Motion carried.

After some discussion, Senator Oleen made a motion to amend **HB2795** changing the word "foreign" to "out of state". Seconded by Senator Downey. Motion carried.

Senator Vratil made a motion to recommend **HB2795** as amended favorably for passage. Seconded by Senator Teichman. Motion carried.

SB344—Sales tax; exempting certain sales by schools and school-sponsored groups and organizations

Joan Wagon, Secretary of Revenue, explained the fiscal note on **SB344**. The fiscal note as currently proposed would be \$9 million in 2005 with the potential that the impact could be higher. If secondary schools were included, the impact would be \$13 million. The loss would accelerate in 2006.

Senator Vratil made a motion to table **SB344**. Seconded by Senator Emler. Motion carried.

SB 512—School districts; building-based budgeting

Senator Bunten handed out information on his proposal in **SB512** which includes a copy of the district wide budget which is required by school districts to submit to State Department of Education, a copy of the format that the building-based budget working group developed and a copy of Seaman School District's budget figures put on the new format. Senator Bunten handed out the information with the understanding that the bill would be worked tomorrow, March 10, 2004.

Adjourned 2:30 p.m. The next meeting is scheduled for March 10, 2004.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE - 3-9-04

NAME	REPRESENTING
STEVE KEAGNEY	KATBC
TERRY HADROW	KS FARM BUREAU
Michael White	KATBC
Richard Hoffman	Kaw Area Tech School
Junie Roe	KACCT
Dennis McMillan	League of Women Voters - KS
Stuart Little	Shance Mission #512
Kent Hufst	USA
Dennis Ayl	U. S. D. # 500
Bill Brady	SFFF
Dodie Weiskamp Johnson	Patrick Hurley & Co.
Mark Tallman	KTSB
Doug Penner	KICA
Gary George	Olath Public Schools
Yaf DeFau	SQE
Kevin Botcher	Citizen
Elaine Frisbie	Division of the Budget
BILL LAND	Blue Valley #229
Eun Land	Sen. Adkins
Julie Schlosener	MC SEC #617
Ron Seeber	Hein Law Firm

KATS

March 9, 2004

TO: Senator Dwayne Umbarger
Senate Education Committee

FROM: Richard Hoffman
Director, Kaw Area Technical School

RE: HOUSE BILL #2795

In October 2003, I was notified by the United States Department of Education that they would be conducting an audit of Kaw Area Technical School's (KATS) financial aid program. During the exit interview, the lead auditor informed me that KATS was out of compliance based on the fact that the school was accepting students, who had not graduated from high school or earned their General Equivalency Diploma (GED), as regular students, and these students had not passed the age of compulsory attendance as set forth by K.S.A. 72-111. Further, KATS has been out of compliance since July 1997 when the compulsory age for Kansas was changed from sixteen (16) to eighteen (18).

As a result of this change in state statute, the Preliminary Finding Point Sheet and the Draft Auditor's Report both recommend that Kaw Area Technical School face the following penalties:

1. Immediate suspension of KATS ability to award financial aid to postsecondary students.
2. Pay back to the government financial aid disbursed to students during AY 2002-03, which total \$882,445.
3. Further audit KATS enrollment practices prior to AY 2002-03 to identify additional monies that should be paid back. (This estimated amount exceeds over \$3,000,000.)

It is important to note that Kaw Area Technical School has never been sited for awarding ineligible students financial aid. All students, who received financial aid, met federal eligibility requirements.

Further investigation by Reggie Robinson, president and CEO of the Kansas Board of Regents, has determined that the compulsory age law is a problem for other schools and colleges in at least seventeen (17) other states as well as Kansas. After visiting with several United States Senators, Representatives and their staff members, it was determined that this is a state issue not a federal issue. The Federal regulation simply states that whatever the State sets as its own guidelines is what the Federal government will accept.

To this end, I am asking your support of House Bill #2795 as a legislative solution to this problem for the entire State of Kansas.

5724 SW Huntoon Street Topeka, Kansas 66604-2199 785-273-7140 (Telephone)

Senate Education
3-9-04
Attachment 1

ATTORNEY-CLIENT PRIVILEGED

MEMORANDUM

To: Richard Hoffman
From: Leigh Manasevit, Brian Kobil
Subj: Analysis of Statutory Amendment
Date: February 17, 2004

ISSUE

You asked us for our analysis of the proposed amendment to the Kansas compulsory school attendance statute.

BACKGROUND

Kaw Area Technical School (KATS) is a technical college in Topeka, Kansas that serves students from 17 surrounding school districts. The majority of KATS' regular students are either high school graduates or are over 18 years old, or both. KATS also admits juniors and seniors in high school who may be either 16- or 17-years-old. Of the 440 high school students admitted by KATS, between 250 and 300 are under age 18. The high school students take classes at KATS and at their respective high schools. If a student enrolls in KATS during his or her junior year of high school, upon successful completion of the curriculum, he or she will graduate with both a KATS diploma and a high school diploma at the end of his or her senior year in high school. Though KATS does educate a handful of 15-year-old students each semester, none of the 15-year-olds are enrolled in a diploma program, nor do they receive postsecondary credit.

KATS hopes to amend the Kansas compulsory school attendance statute, so as to add a new exemption to the compulsory school attendance requirements. The proposed amendment exempts 16- or 17-year-old children from the compulsory school attendance requirements if they are "enrolled in a postsecondary educational institution, as defined by K.S.A. 74-3201b, and amendments thereto." This amendment "shall be applicable to children from and after July 1, 1997 and shall relate back to such date."

DISCUSSION

The Kansas compulsory school attendance statute currently requires that any child "who has reached the age of seven years and is under the age of 18 years and has not attained a high school diploma or a general educational

development (GED) credential” must continuously attend a public, private, denominational, or parochial school each school year. K.S.A. § 72-1111(a)(1)-(2). If a child is 16- or 17-years-old, the parent by written consent, or a court pursuant to a court order, may allow such a child to be exempt from the Kansas compulsory school attendance requirements. *Id.*

There are two exemptions from the compulsory school attendance requirements currently in force that apply to children age 16- or 17-years-old: (1) enrollment in a program recognized by the local school board as an approved alternative educational program; or (2) attendance by the child and parent (or person acting as parent) at a final counseling session conducting by the school during which a disclaimer to encourage the child to remain in school or to pursue educational alternatives is presented to and signed by the child and the parent (or person acting as parent). K.S.A. § 72-1111(b).

The amendment proposed adds a third exemption to the compulsory school attendance requirements, which would apply to any 16- or 17-year-old child who is “enrolled in a postsecondary educational institution,” as defined by Kansas law. Kansas defines a postsecondary educational institution as “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.” K.S.A. § 74-3201b(h). The amendment “shall be applicable to children from and after July 1, 1997 and shall relate back to such date.”

The amendment will address the state’s broad policy goals that encouraged Kansas to raise the age of compulsory education from 16 to 18 in 1997. First, this amendment will help to prevent high school dropouts. Second, the amendment will encourage more students pursue higher education degrees. Students that are enrolled in degree programs in KATS as juniors and seniors in high school are required to attend classes both at KATS and their respective high schools. At the end of the program, if they successfully complete the curriculum, the students receive both a high school diploma and a degree from KATS. By giving this option, Kansas is encouraging students to stay in school who might otherwise have considered dropping out to be the better choice. The amendment allows KATS and other postsecondary educational institutions in Kansas to continue to serve high school juniors and seniors without placing themselves at risk for a potential determination of institutional ineligibility for Title IV programs. As a result, this amendment furthers the state’s policies of preventing high school dropout and encouraging more students to seek higher education.

Similarly, the amendment will address the policy goals of all postsecondary educational institutions within the state of Kansas. Just as it is the state’s policy to encourage more students to remain in school, graduate from

high school, and pursue higher education, postsecondary educational institutions share these same goals. KATS, and other postsecondary educational institutions within the state of Kansas, require a certain measure of flexibility in attempting to meet these policy goals, particularly with regard to students who, in the past, may not have chosen to graduate from high school or pursue higher education. By allowing KATS and other postsecondary educational institutions to serve 16- and 17-year-old students, the amendment enables these institutions to offer the students enhanced educational and professional opportunities, and provide a valuable service to the community, while not placing their Title IV eligibility at risk.

This amendment will also address the short-term issue of the pending U.S. Department of Education (ED) Office of Inspector General (OIG) Draft Audit Report. KATS is clearly covered by this exemption because, as a technical college, it is a "postsecondary educational institution" under Kansas law. By enacting this exemption, all of KATS' 16- and 17-year-old regular students will be exempt from the compulsory school attendance requirements by virtue of their enrollment in a degree program at KATS. This will likely render the audit results moot. Also, by making the exemption retroactive to July 1, 1997, the amendment will also likely nullify the Draft Audit Report's assertion that KATS may have been ineligible to participate in Title IV programs since 1997, when the age of compulsory education in Kansas was raised from 16- to 18-years-old. Not only will KATS likely be in a better position with regard to this Draft Audit Report, it is likely that other postsecondary educational institutions in Kansas will not be subject to similar audit findings in the future.



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Cooperating Districts

USD 321	Kaw Valley
USD 335	North Jackson
USD 336	Holton
USD 337	Royal Valley
USD 338	Valley Falls
USD 339	Jefferson County North
USD 340	Jeff West
USD 341	Oskaloosa
USD 342	McLouth
USD 343	Perry
USD 345	Seaman
USD 372	Silver Lake
USD 434	Santa Fe Trail
USD 437	Auburn Washburn
USD 450	Shawnee Heights
USD 454	Burlingame
USD 501	Topeka

[As Amended by House Committee of the Whole]

Session of 2001

Substitute for HOUSE BILL No. 2493

By Committee on Higher Education

1-29

10 AN ACT relating to education; concerning private and postsecondary
11 institutions; repealing K.S.A. 72-4916, 72-4919, 72-4920, 72-4921, 72-
12 4922, 72-4924 through 72-4937, inclusive, 72-4939, 72-4940 and 74-
13 3249 through 74-3253, inclusive and K.S.A. 2003 Supp. 72-4938.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. This act shall be known and may be cited as the "Kansas
17 private and foreign postsecondary institution act."

18 Sec. 2. As used in this act:

19 (a) "Academic degree" means any associate, bachelor's, first profes-
20 sional, master's, intermediate (specialist) or doctor's degree.

21 (b) "Accreditation" refers to accreditation by an agency recognized
22 by the United States department of education.

23 (c) "Branch campus" means any subsidiary place of business main-
24 tained within the state of Kansas by an institution at a site which is sep-
25 arate from the site of the principal place of business maintained by the
26 institution and at which subsidiary place of business the institution offers
27 a course or courses of instruction or study identical to the course or
28 courses of instruction or study offered by the institution at its principal
29 place of business.

30 (d) "Commission" means the advisory commission established pur-
31 suant to this act.

32 (e) "Distance education" means any course delivered primarily by
33 correspondence study, audio, video and/or computer technologies.

34 (f) "Foreign institution of postsecondary education" means any insti-
35 tution of postsecondary education chartered, incorporated or otherwise
36 organized under the laws of any jurisdiction other than this state.

37 [(g) "Institution" means any foreign institution of postsecon-
38 dary education or private postsecondary institution as defined by
39 this act.]

40 (g) [(h)] "Institution employee" means any person, other than an
41 owner, who directly or indirectly receives compensation from an insti-
42 tution for services rendered.

43 (h) [(i)] "Owner of an institution" means:

foreign postsecondary educational institutions

educational

"Owner of an institution"

Senate Education
3-9-04
Attachment 2

Thomas Kiernan
Revisor of Statutes

1 (1) In the case of an institution owned by an individual, that
2 individual;

3 (2) in the case of an institution owned by a partnership, all full, silent
4 and limited partners;

5 (3) in the case of an institution owned by a corporation, the corpo-
6 ration, its directors, officers and each shareholder owning shares of issued
7 and outstanding stock aggregating at least 10% of the total of the issued
8 and outstanding shares; and

9 (4) in the case of an institution owned by a limited liability company,
10 the company, its managers and all its members.

11 (j) [(j)] "Person" means any individual, firm, partnership, association
12 or corporation.

13 (k) [(k)] "Physical presence" exists if the institution employs in Kansas
14 any Kansas resident for the purpose of administering, coordinating, teach-
15 ing, training, tutoring, counseling, advising or any other activity on behalf
16 of the sponsoring organization, or if the institution delivers, or plans to
17 deliver, instruction in Kansas, and receives assistance from any other or-
18 ganization within the state in delivering the instruction, such as, but not
19 limited to, a cable television company or a television broadcast station
20 that carries instruction sponsored by the institution.

21 (l) [(l)] "~~Private postsecondary institutions" or "institutions" are de-~~
22 ~~finied as entities which:~~

23 (1) Are business enterprises whether operated on a profit or not-for-
24 profit basis; which have a physical presence within the state of Kansas, or
25 solicit business within the state of Kansas;

26 (2) offer a course or courses of instruction or study through classroom
27 contact or by distance education, or both, for the purpose of training or
28 preparing persons for a field of endeavor in a business, trade, technical
29 or industrial occupation, or offer a course or courses leading to an aca-
30 demic degree, except as hereinafter excluded; and

31 (3) are not specifically exempted by the provisions of this act.

32 (m) [(m)] "Representative" means any person employed by an insti-
33 tution to act as an agent, solicitor or broker to procure students or en-
34 rollees for the institution by solicitation within this state at any place other
35 than the office or a place of business of the institution.

36 (n) [(n)] "State board" means the Kansas board of regents, or such
37 person or persons as may be designated by the state board to administer
38 the provisions of this act.

39 (o) [(o)] "Support" or "supported" means the primary source and
40 means by which an institution derives revenue to perpetuate operation
41 of the institution.

42 (p) [(p)] "~~University" refers exclusively to an institution of postsec-~~
43 ~~ondary education authorized to offer bachelor degrees together with grad-~~

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"Private postsecondary educational institution" means
an entity

means

uate or first professional degrees.

Sec. 3. The following are exempt from the provisions of this act and shall not be considered to be within the definition of private and [or] foreign postsecondary institutions:

(a) An institution or educational institution supported primarily by Kansas taxation from either a local or state source;

(b) an institution or training program which offers instruction only for avocational or recreational purposes as determined by the state board;

(c) a course or courses of instruction or study, excluding degree-granting programs, sponsored by an employer for the training and preparation of its own employees, and for which no tuition or other fee is charged to the student;

(d) a course or courses of instruction or study sponsored by a recognized trade, business or professional organization having a closed membership for the instruction of the members of the organization, and for which no tuition or other fee is charged to the student;

(e) an institution which is otherwise regulated and approved under any other law of this state;

(f) a course or courses of special study or instruction having a closed enrollment and financed or subsidized on a contract basis by local or state government, private industry, or any person, firm, association or agency, other than the student involved;

(g) an institution financed or subsidized by federal or special funds which has applied to the state board for exemption from the provisions of this act and which has been declared exempt by the state board because it has found that the operation of such institution is outside the purview of this act; and

(h) Any institution of postsecondary education which was granted approval to confer academic or honorary degrees by the state board of education under the provisions of former K.S.A. 17-6105 ~~for to~~ the Kansas City college and bible school, inc.

,and amendments thereto, or

Sec. 4. (a) The state board of regents may adopt rules and regulations for the administration of this act. Prior to the adoption of any such rules and regulations, the state board shall afford the advisory commission an opportunity to make recommendations thereon.

(b) Specific standards shall be set for determining those private or foreign institutions of postsecondary education which qualify for approval to confer or award degrees. Such standards shall be consistent with standards applicable to state educational institutions under the control and supervision of the state board of regents.

(c) The state board shall maintain a list of institutions that have been issued a certificate of approval.

(d) Any state agency having information which will enable the state

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1 board of regents to exercise its powers and perform its duties in admin-
2 istering the provisions of this act shall from time to time as requested
3 furnish such information to the state board of regents.

4 Sec. 5. (a) The advisory commission on private and foreign postse-
5 condary institutions is hereby created. The commission shall consist of
6 nine members appointed by the state board. ~~Members shall serve from~~
7 ~~the date of appointment for terms~~ of four years. If a commission member
8 resigns, or is otherwise unable to serve, a new member shall be appointed
9 by the state board to fill the unexpired term. Five members of the com-
10 mission shall be owners or managers of private postsecondary institutions,
11 at least two of the five members shall represent institutions, which at the
12 time of appointment of such members, have enrollments of under 125
13 students, and at least one shall represent a degree granting institution.
14 Four members shall be selected from among the following categories:
15 Secondary schools, postsecondary schools, business and industry, the em-
16 ployment community, economic development and health occupations.

17 (b) The commission shall elect one member as chairperson of the
18 commission and such other officers as may be necessary.

19 (c) The commission shall meet at least annually in Topeka during the
20 month of October, and shall conduct special meetings on the call of the
21 chairperson or the state board or at the request of at least four members
22 of the commission.

23 (d) Members of the advisory commission on private and foreign pos-
24 tsecondary institutions attending meetings of such commission, or at-
25 tending a subcommittee meeting thereof authorized by such commission,
26 shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and
27 amendments thereto.

28 (e) A majority of the commission is a quorum to conduct business,
29 but no less than four members must concur to pass upon any matter
30 before the commission.

31 (f) The commission may recommend to the state board such policies,
32 regulations, minimum standards and general rules that the commission
33 deems necessary for administering the provisions of this act.

34 Sec. 6. (a) No private or foreign postsecondary institution may op-
35 erate within this state without obtaining a certificate of approval from the
36 state board as provided in this act. No private institution of postsecondary
37 education chartered, incorporated or otherwise organized under the laws
38 of this state shall confer or award any degree, whether academic or hon-
39 orary, unless and until such an institution has been approved for such
40 purpose by the state board of regents.

41 (b) Any contract entered into by or on behalf of any owner, institution
42 employee or representative of an institution which is subject to the pro-
43 visions of this act, but which has not obtained a certificate of approval,

Except as provided by this subsection, members shall
be appointed for terms of

1 shall be unenforceable in any action.

2 Sec. 7. (a) Each institution shall apply to the state board for a certifi-
3 cate of approval. An institution shall not be required to obtain a separate
4 certificate of approval for maintenance of any branch institution.

5 (b) An application for a certificate of approval shall be made on a
6 form prepared and furnished by the state board and shall contain such
7 information as may be required by the state board.

8 (c) The state board may issue a certificate of approval upon deter-
9 mination that an institution meets the standards established by the state
10 board. The state board may issue a certificate of approval to any institution
11 accredited by a regional or national accrediting agency recognized by the
12 United States office [department] of education without further
13 evidence.

14 Sec. 8. The state board shall issue a certificate of approval to an in-
15 stitution when the state board is satisfied that the institution meets min-
16 imum standards established by the state board by adoption of rules and
17 regulations to insure that:

18 (a) Courses, curriculum and instruction are of such quality, content
19 and length as may reasonably and adequately ensure achievement of the
20 stated objective for which the courses, curriculum or instruction are
21 offered.

22 (b) Institutions have adequate space, equipment, instructional ma-
23 terial and personnel to provide education and training of good quality.

24 (c) Educational and experience qualifications of directors, adminis-
25 trators and instructors are such as may reasonably insure that students
26 will receive instruction consistent with the objectives of their program of
27 study.

28 (d) Institutions maintain written records of the previous education
29 and training of students and applicant students, and that training periods
30 are shortened when warranted by such previous education and training
31 or by skill or achievement tests.

32 (e) A copy of the course outline, schedule of tuition, fees and other
33 charges, settlement policy, rules pertaining to absence, grading policy and
34 rules of operation and conduct are furnished to students upon entry into
35 class.

36 (f) Upon completion of training and/or instruction, students are given
37 certificates, diplomas or degrees as appropriate by the institution indi-
38 cating satisfactory completion of the program.

39 (g) Adequate records are kept to show attendance, satisfactory aca-
40 demic progress and enforcement of satisfactory standards relating to at-
41 tendance, progress and conduct.

42 (h) Institutions comply with all local, city, county, municipal, state
43 and federal regulations.

- 1 (i) Institutions are financially responsible and capable of fulfilling
2 commitments for instruction.
- 3 (j) Institutions do not utilize erroneous or misleading advertising, ei-
4 ther by actual statement, omission or intimation.
- 5 (k) Institutions have and maintain a policy, which shall be subject to
6 state board approval, for the refund of unused portions of tuition, fees
7 and other charges in the event a student enrolled by the institution fails
8 to begin a course or withdraws or is discontinued therefrom at any time
9 prior to completion, which policies shall take into account those costs of
10 the institution that are not diminished by the failure of the student to
11 enter or complete a course of instruction.
- 12 Sec. 9. (a) The state board, upon review of an application for a cer-
13 tificate of approval meeting the requirements of this act shall issue a
14 certificate of approval to the applicant institution. Certificates of approval
15 shall be in a form specified by the state board with advice from the com-
16 mission. Certificates of approval shall state at least the following
17 information:
- 18 (1) The date of issuance and term of approval;
- 19 (2) the correct name and address of the institution; and
- 20 (3) the signature of the chief executive officer of the Kansas board of
21 regents or a person designated by the state board to administer the pro-
22 visions of this act.
- 23 (b) Certificates of approval shall be valid for a term of one year.
- 24 (c) Each certificate of approval shall be issued to the owner of an
25 applicant private ~~and~~ [or] foreign postsecondary institution and shall be
26 nontransferable. In the event of a change in ownership of a private ~~and~~
27 [or] foreign postsecondary institution, the new owner must apply within
28 30 calendar days prior to the change in ownership for a new certificate
29 of approval. The state board may waive the 30 calendar day requirement
30 upon determination that an emergency exists and that the waiver and
31 change in ownership would be in the best interests of students currently
32 enrolled in the private ~~and~~ [or] foreign postsecondary institution. When-
33 ever a change of ownership occurs as a result of death, court order or
34 operation of law, the new owner shall apply immediately for a new cer-
35 tificate of approval.
- 36 (d) At least 60 calendar days prior to expiration of a certificate of
37 approval, the state board shall forward to the private ~~and~~ [or] foreign
38 postsecondary institution a renewal application form.
- 39 (e) Any institution which is not yet in operation when its application
40 for a certificate of approval is filed shall not accept payments for tuition,
41 fees or other enrollment charges until receipt of the certificate of
42 approval.
- 43 (f) Any institution which does not plan to renew a certificate of ap-

1 proval must notify the state board at least 60 calendar days prior to the
2 expiration date of the certificate of approval.

3 Sec. 10. (a) If the state board, upon review and consideration of an
4 application for a certificate of approval, determines the applicant to be
5 unacceptable, the state board shall refuse to issue the certificate and set
6 forth the reasons for the determination.

7 (b) If an applicant, upon written notification of refusal by the state
8 board to issue a certificate of approval, desires to contest such refusal,
9 the applicant shall notify the state board in writing, within 15 calendar
10 days after the date of service of such notice of refusal, of the desire to be
11 heard, and such applicant shall be afforded a hearing in accordance with
12 the provisions of the Kansas administrative procedure act. Upon conclu-
13 sion of any such hearing, the state board shall issue a certificate of ap-
14 proval or a final refusal to do so.

15 (c) If an applicant, upon service of notice of refusal by the state board
16 to issue a certificate of approval, fails to request a hearing within 15 cal-
17 endar days after the date of service of such notice of refusal, the state
18 board's refusal shall be final.

19 Sec. 11. (a) The state board may revoke a certificate of approval or
20 impose reasonable conditions upon the continued approval represented
21 by a certificate. Prior to revocation or imposition of conditions upon a
22 certificate of approval, the state board shall notify the holder of the cer-
23 tificate in writing of the impending action setting forth the grounds for
24 the action contemplated to be taken and affording a hearing on a date
25 within 30 calendar days after the date of such notice. Hearings under this
26 section shall be conducted in accordance with the provisions of the Kansas
27 administrative procedure act.

28 (b) A certificate of approval may be revoked or conditioned if the
29 state board has reasonable cause to believe that the institution is in vio-
30 lation of any provision of this act or of any rules and regulations adopted
31 under this act.

32 Sec. 12. Any action of the state board pursuant to sections 10, 11 or
33 13, and amendments thereto, is subject to review in accordance with the
34 act for judicial review and civil enforcement of agency actions. If it shall
35 appear to the board of regents on the basis of its own inquiries or inves-
36 tigations or as a result of a complaint that any of the provisions of this act
37 have been or are about to be violated, the board of regents may request
38 the attorney general to institute an action enjoining such violation or for
39 an order directing compliance with the provisions of this act.

40 Sec. 13. (a) Each representative of an institution shall register with
41 the state board. Application for registration may be made at any time on
42 a form prepared and furnished by the state board and shall contain such
43 information as may be required by the state board.

1 (b) Registration of a representative shall be effective upon receipt of
2 notice from the state board and shall remain in effect until expiration of
3 the certificate of approval of the institution employing such representa-
4 tive. Renewal of representative registration shall be in accordance with
5 the renewal application form forwarded to the institution by the state
6 board.

7 (c) Denial or revocation of registration of a representative by the state
8 board shall be in accordance with the provisions of this act applicable to
9 denial or revocation of a certificate of approval.

10 (d) A representative employed by more than one institution shall not
11 be required to register for each institution when such institutions have a
12 common ownership.

13 Sec. 14. (a) Before a certificate of approval is issued under this act,
14 a bond in the penal sum of \$20,000 shall be provided by the institution
15 for the period for which the certificate of approval is to be issued. The
16 obligation of the bond shall be that the institution and its officers, agents,
17 representatives and other employees shall be bound, upon closure of the
18 institution, to deliver or make available to the state board the records of
19 all students who are in attendance at the institution at the time of closure
20 or who have attended the institution at any time prior to closure. The
21 bond shall be a corporate surety bond issued by a company authorized to
22 do business in this state. The bond shall be filed with the state board. If
23 the institution ceases operation, the state board may recover against the
24 bond all necessary costs for the acquisition, permanent filing and main-
25 tenance of student records of the ~~private postsecondary~~ institution.

26 (b) In lieu of the corporate surety bond required under subsection
27 (a), an institution may provide any similar certificate or evidence of in-
28 debtedness or insurance as may be acceptable to the state board if such
29 certificate or evidence of indebtedness or insurance is conditioned that
30 the requirements of subsection (a) shall be met.

31 Sec. 15. (a) Subject to the provisions of subsection (b), no tuition in
32 an amount greater than \$350 shall be collected from a student by any
33 institution more than 30 days before the student receives classroom in-
34 struction, and not more than \$150 of such amount may be retained by an
35 institution from any student who fails to enter the institution.

36 (b) In the case of distance education, no tuition in an amount greater
37 than \$200 shall be collected from a student prior to the first submission
38 of a lesson by the student, and not more than \$75 of such amount may
39 be retained by an institution from any student who fails to enter the
40 institution.

41 Sec. 16. (a) No person shall:

- 42 (1) Operate an institution without a certificate of approval;
43 (2) solicit prospective students without being registered as required

1 by this act;

2 (3) accept contracts or enrollment applications from a representative
3 who is not registered as required by this act;

4 (4) use fraud or misrepresentation in advertising or in procuring en-
5 rollment of a student;

6 (5) use the term "accreditation" except as defined in this act; and

7 (6) use the term "university" in the name or advertisement of the
8 institution unless such institution is a "university" as defined by this act.

9 (b) Violation of any provision of subsection (a) or of any other provision
10 of this act is a class C nonperson misdemeanor.

11 Sec. 17. Upon application of the attorney general or a county or dis-
12 trict attorney, the district courts shall have jurisdiction to enjoin any vi-
13 olation of this act and to enjoin persons from engaging in business in this
14 state. In any action brought to enforce the provisions of this act, if the
15 court finds that a person willfully used any deceptive or misleading act or
16 practice, the attorney general or a county or district attorney, upon pe-
17 tition to the court, may recover on behalf of the state, in addition to the
18 criminal penalties provided in this act, a civil penalty not exceeding \$1,000
19 per person for each violation. For purposes of this section, a willful vi-
20 olation occurs when the person committing the violation knew or should
21 have known that the conduct of the person consisted of acts or practices
22 which were deceptive or misleading.

23 Sec. 18. Any note or contract taken by any institution or its officers,
24 directors, agents or representatives, without having complied with the
25 provisions of this act, shall be null and void and any person who shall
26 have entered into a contract with such institution or its officers, directors,
27 agents or representatives shall be entitled to a full refund of the money
28 or consideration paid plus interest accruing from the date of payment at
29 a rate per annum equal to the rate specified in K.S.A. 16-207, and amend-
30 ments thereto, together with other damages sustained by such person.

31 Sec. 19. Whenever any institution negotiates any promissory instru-
32 ment or note received from a student or on behalf of a student as payment
33 of tuition or other fees charged by each institution, any person or assignee
34 or holder to whom the instrument or note is assigned shall take such
35 instrument or note subject to all defenses which would be available to
36 the student from whom or on behalf of whom the instrument or note was
37 received.

38 Sec. 20. (a) The state board shall fix, charge and collect fees for cer-
39 tificates of approval, registration of representatives and providing tran-
40 scripts to students who attended a ~~private postsecondary~~ [an] institution
41 that has ceased operation by adopting rules and regulations for such pur-
42 poses, subject to the following limitations:

43 (1) For institutions domiciled or having their principal place of busi-

1	ness within the state of Kansas:	
2	Initial issuance of certificate of approval nondegree granting — not more	
3	than	\$1,700
4	Initial issuance of certificate of approval degree granting — not more	
5	than	\$2,000
6	Renewal of certificate of approval nondegree granting — not more	
7	than	\$1,200
8	Renewal of certificate of approval degree granting — not more than	\$1,600
9	Initial registration of representative — not more than	\$150
10	Annual renewal of registration of representative — not more than	\$100
11	(2) For institutions domiciled or having their principal place of busi-	
12	ness outside the state of Kansas:	
13	Initial issuance of certificate of approval nondegree granting — not more	
14	than	\$3,400
15	Initial issuance of certificate of approval degree granting — not more	
16	than	\$3,800
17	Renewal of certificate of approval nondegree granting — not more	
18	than	\$2,400
19	Renewal of certificate of approval degree granting — not more than	\$2,800
20	Initial registration of representative — not more than	\$300
21	Annual renewal of registration of representative — not more than	\$200
22	Student transcript from institution that has ceased operation — not more	
23	than	\$10
24	(b) The state board shall determine on or before June 1 of each year	
25	the amount of revenue which will be required to properly carry out and	
26	enforce the provisions of the Kansas private and foreign postsecondary	
27	institution act for the next ensuing fiscal year and shall fix the fees au-	
28	thorized for such year at the sum deemed necessary for such purposes	
29	within the limits of this section. Prior to adoption of any such fees, the	
30	state board shall afford the advisory commission on private and foreign	
31	postsecondary institutions an opportunity to make recommendations on	
32	the proposed fees.	
33	(c) Fees may be charged to conduct onsite reviews for degree grant-	
34	ing or to review curriculum in content areas where the state board does	
35	not have expertise.	
36	Sec. 21. (a) The state board shall remit all moneys received pursuant	
37	to the provisions of this act to the state treasurer. Upon receipt of each	
38	such remittance, the state treasurer shall deposit the entire amount re-	
39	mitted in the state treasury and shall credit the same to the private and	
40	foreign postsecondary institution fee fund to be used for the purpose of	
41	administering this act. All expenditures from the private and foreign pos-	
42	tsecondary institution fee fund shall be made in accordance with appro-	
43	priations acts upon warrants of the director of accounts and reports issued	

1 pursuant to vouchers approved by the state board or by a person or per-
2 sons designated by the state board.

3 (b) On or before the 10th of each month, the director of accounts
4 and reports shall transfer from the state general fund to the private and
5 foreign postsecondary institution fee fund interest earnings based on: (1)
6 The average daily balance of moneys in the private and foreign postse-
7 condary institution fee fund for the preceding month; and (2) the net
8 earnings rate for the pooled money investment portfolio for the preceding
9 month.

10 Sec. 22. If any clause, paragraph, subsection or section of the Kansas
11 private and foreign postsecondary institution act shall be unconstitutional
12 or invalid, it shall be conclusively presumed that the legislature would
13 have enacted the remainder of the act without such unconstitutional or
14 invalid clause, paragraph, subsection or section.

15 Sec. 23. K.S.A. 72-4916, 72-4919, 72-4920, 72-4921, 72-4922, 72-
16 4924 through 72-4937, inclusive, 72-4939, 72-4940 and 74-3249 through
17 74-3253, inclusive, and K.S.A. 2003 Supp. 72-4938 are hereby repealed.

18 Sec. 24. This act shall take effect and be in force from and after its
19 publication in the statute book.