

MINUTES

LEGISLATIVE EDUCATIONAL PLANNING COMMITTEE

August 9, 2002
Room 514-S—Statehouse

Members Present

Representative Jo Ann Pottorff, Chair
Senator Christine Downey
Senator Lana Oleen
Representative Barbara Ballard
Representative Lisa Benlon
Representative Kathe Decker
Representative Ralph Tanner
Representative Jonathan Wells

Members Absent

Senator Lynn Jenkins
Senator Bob Lyon
Senator Dwayne Umbarger, Vice Chair
Senator John Vratil
Representative Bill Reardon

Legislative Staff

Ben Barrett, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Paul West, Kansas Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes

Conferees

Dr. Jerry Niebaum, KAN-ED Planning Coordinator, Kansas Board of Regents
Marvin Burris, Interim President and Chief Executive Officer, Kansas Board of Regents

Soon Merz, Director of Institutional Research, Kansas Board of Regents
Joe Lawhon, Principal Auditor, Legislative Division of Post Audit
Dr. Pat Anderson, Director of Proprietary Schools, Kansas Board of Regents
Blanche Parks, Director of Kansas Learning Quest Education Savings Program, Office
of the State Treasurer
Peggy Hanna, Assistant State Treasurer

Implementation of KAN-ED

Dr. Jerry Niebaum, a professor from the University of Kansas who is temporarily assigned to the Kansas Board of Regents, discussed the continued implementation of KAN-ED (Attachment 1). KAN-ED is a technology-based network that links schools (elementary-secondary and postsecondary), libraries, and hospitals. Legislation establishing the system was enacted in 2001 and a funding mechanism was provided by the 2002 Legislature under which up to \$10,000,000 can be appropriated by the Legislature from the Kansas Universal Service Fund beginning with the last half of FY 2003 through FY 2005. After that, funding would have to come from the State General Fund. The Kansas Board of Regents is responsible for operating and maintaining the network, which provides Internet access and distance learning capabilities for users.

Dr. Niebaum emphasized that the system is “people oriented” in that its successful implementation depends upon the participation and cooperation of a number of individuals representing state agencies, vendors, and network participants. Activities of the Board of Regents are guided by a 12-member advisory committee that represents the four user communities (libraries, hospitals, elementary-secondary education, and postsecondary education). He explained that the advisory committee has work groups that address technical and architectural areas, as well as content and services. He told the Committee the priority for the system is education content and services. Dr. Niebaum described the system as a “network of networks” that includes several state government and higher education systems, such as the Kansas Research and Education Network (KanREN), and cable, phone company, and public broadcasting networks.

Dr. Niebaum told the Committee the Kansas Board of Regents is proceeding with the implementation of KAN-ED, based on the following assumptions:

- Major uses of the network will be for distance learning, collaboration, and consultation;
- Purchase of access to information resources will be aggregated; and
- Identity of existing networks will be maintained.

In response to questions, Dr. Niebaum said that some other states are ahead of Kansas in the development of a telecommunications backbone like KAN-ED which links a variety of users, but Kansas’ higher education network, KanREN, compares more favorably

with similar networks in other states. Responding to a question about assessing the effectiveness of the system, Dr. Niebaum responded that the system is too new for there to be feedback. However, he said one role of the advisory committee is to identify areas where improvements need to be made. He told the Committee that, although KAN-ED initially was developed to serve school districts west of Highway 81, the most enthusiastic participants in the system are libraries, possibly because they have been the most technologically underserved and thus, have the most to gain.

Implementation of the University Research and Development Enhancement Act

Marvin Burris, Kansas Board of Regents, discussed the implementation of 2002 HB 2690, which provides funding and a structure for enhanced research and development projects at Regents research universities (Attachment 2). The bill authorizes the Kansas Development Finance Authority to issue up to \$120.0 million in bonds for research facilities at Regents universities, with additional funding to come from private donors and federal grants. The bill provides that, beginning in FY 2005, debt service on the bonds will be paid from the State General Fund, with payments limited to not more than \$10.0 million annually, and \$50.0 million in the aggregate.

The bill directs the Board of Regents to form a subsidiary corporation to perform or assist the Board in performing its duties. The board of directors of the corporation consists of seven voting members appointed by the Board of Regents and legislative leadership. In addition, the Secretary of Administration, or a designee, serves as a nonvoting *de facto* member. The members appointed by the Board of Regents are Clay Blair, Steve Clark, and Dan Craig. Legislative appointees are Mike Daniels, Dean Ferrell, Lloyd E. Lavin, Sr., and Representative Rocky Nichols. The Secretary of Administration's designee is Joe Fritton.

HB 2690 limits the scope of research and development enhancements to the following four projects:

- Constructing the Food Safety and Security Research Facility at Kansas State University;
- Constructing the Biomedical Research Facility at the University of Kansas Medical Center;
- Expanding the Aviation Engineering Complex at Wichita State University;
and
- Equipping the Biosciences Research Building at the University of Kansas.

Development of the Kansas Postsecondary Database

Soon Merz, Kansas Board of Regents, described activities of the Board of Regents to fulfill its responsibility under the Kansas Higher Education Coordination Act (1999 SB 345) to develop and maintain a uniform postsecondary education database ([Attachments 3 and 4](#)). Ms. Merz explained that the new system is intended to serve several functions, including providing data to support decision-making activities of the Board and the Legislature and serving as a resource to the individual campuses for purposes of federal reporting, tracking transfer students, standardizing reports, and providing the capacity to quickly respond to data inquiries.

According to Ms. Merz, the system is based on the following conceptual design:

- It is technologically neutral (it can be adapted to whatever computer hardware and software campuses presently have);
- It will be implemented for public institutions initially, with independent colleges and universities added later;
- Data initially collected will be student and enrollment data, with additional data added later; and
- Existing state and federal definitions will be used.

Ms. Merz told the Committee that several advisory committees are assisting the Board in developing the system, including an academic committee comprised of representatives of three state universities, Washburn University, and four community colleges (with one or more members to be added later), and a vocational committee comprised of representatives of two technical colleges and two area vocational schools. Staff from the Board of Regents office serve on both committees.

During the 2002-03 school year, institutions are participating in a pilot project to implement data in order to test the system. Institutions do not have to participate, but are strongly being urged to submit data in order to test the format, content, and transmission of information. The system will “go live” in school year 2003-04.

Ms. Merz told the Committee that the Board staff has asked for a ruling from federal officials regarding the Family Educational Rights and Privacy Act (FERPA), particularly as it relates to the use of information about students who transfer from one institution to another. The federal act generally prohibits the disclosure of information that would identify specific students and provides that certain other information can only be accessible to the institution where the student is enrolled. Ms. Merz explained that, once the system is implemented, individual institutions will be able to get summaries and aggregated data on a systemwide basis, but will be able to get specific student information only on their own students.

Proprietary School Audit

Joe Lawhon, Legislative Division of Post Audit, presented findings and recommendations of a performance audit entitled *Proprietary Schools: Reviewing the Board of Regents' Responsibilities and Oversight*. (The audit, completed in April 2002, is available from the Legislative Division of Post Audit.) Mr. Lawhon told the Committee the audit was prompted, in part, by the fact that 65 complaints have been made to the Attorney General's Office since July 1, 1999, concerning proprietary schools. Most of the complaints, however, have been about two schools—Lawrence Career College and Topeka Technical College.

The audit found several weaknesses in the Board of Regents' administration of the proprietary school laws. First, rules and regulations adopted by the Board do not contain specific criteria or minimum standards by which the schools can be regulated. In addition, the Board has failed to implement written policies and procedures for approving proprietary schools and its actions relating to its approval process are not well documented. Although the Board staff generally is considered to be responsive to complaints, the auditors found that the Board did not maintain a centralized record in which complaints are logged and tracked. In comparison to other states, the auditors concluded that, although there are variations, most states do not devote many staff positions to the regulation of proprietary schools and Kansas is not out of line in this regard.

In addition to recommending that more specific rules and regulations be adopted and better documentation of complaints and other administrative procedures be kept, the auditors addressed the requirement set forth in KSA 2001 Supp. 72-4932 concerning bonds. The existing requirement stipulates that an approved proprietary school have a \$20,000 bond to ensure that, if the school closes, student records will be turned over to the Board of Regents so that educational records of students who are or who have been enrolled at the school will not be lost. The audit contains the recommendation that the amount of the bond be increased so that money is available for other purposes, in addition to guaranteeing that records will be turned over to the Board, such as repaying student tuition and fees if a school closes. This recommendation would require a change in the law.

Dr. Pat Anderson, Kansas Board of Regents, gave the Board's response to the audit ([Attachment 5](#)). Dr. Anderson told the Committee that regulation of 75 proprietary schools is only part of the responsibilities of the Board and represents a small portion of its budget and expenditures. For example, in FY 2001, revenues derived primarily from licensure fees totaled \$67,491 and expenditures were \$39,233. Two part-time staff members are assigned to proprietary school regulatory activities. In response to a question, Dr. Anderson said whether the number of staff assigned to the function is adequate depends upon the level of regulatory activity the Board and the Legislature expect. She said that, if greater demands are placed on the Board, proprietary school fees, which are statutory and were last raised in 1998, will have to be increased in order to generate additional revenue.

Dr. Anderson listed several activities the Board's staff has undertaken to strengthen its proprietary school regulatory role. They include developing a checklist of necessary items for licensure of a new school, developing a policies and procedures manual for

proprietary school oversight, and reviewing all proprietary school files to be sure all required items are in the files.

In response to specific recommendations contained in the post audit, Dr. Anderson said a subcommittee of the Proprietary School Advisory Committee is drafting new regulations containing minimum proprietary school standards, which will be proposed to the full Committee in October. If approved by the State Board, the new regulations should be implemented by the spring of 2003. In addition, at its October meeting, the Advisory Committee will review a draft of a formal complaint procedure and a centralized log for tracking complaints.

Committee Minutes

Upon a motion by Representative Tanner, seconded by Senator Oleen, the minutes of the July meeting were approved.

Update on Learning Quest

Blanche Parks and Peggy Hanna, Office of the State Treasurer, presented information about Learning Quest, the Kansas Education Savings Program (Attachment 6). The program, under which state and federal taxes may be deferred on money invested for educational purposes, is administered by the Kansas Treasurer's Office and managed by American Century Brokerage, Inc. Ms. Parks reported to the Committee that currently, more than 35,365 accounts have been opened and the program has \$252.0 million in assets. According to Ms. Parks, Kansas residents account for more than half of the account owners and have contributed \$75.0 million in assets.

The Treasurer's Office heavily markets the program. Two new programs include a statewide essay contest for students in grades six through eight who will address the topic of how they plan to save and plan for the future. Another new program is aimed at new mothers and grandparents to make them aware of the need to start college savings programs for their children. The program will be tested in hospitals in Topeka, Shawnee Mission, and Overland Park this fall and will be expanded next year if it is successful.

Ms. Parks informed the Committee that the State Treasurer has eliminated the \$10 administrative fee charged Kansas residents who open an account, although a fee remains for persons outside Kansas. In addition, the contribution limit on an account was increased from \$127,000 to \$235,000 per beneficiary to more accurately reflect the estimated cost of a five-year college education (tuition, fees, and living expenses) at a Midwest institution of higher education in the year 2020. (The determination is made with input from the Kansas Board of Regents and takes into account the cost of an education at both public and private institutions in the Midwest.)

It was noted that legislation enacted by the 2002 Legislature shifts the responsibility for determining that withdrawals from an account are for educational purposes from the

program manager (American Century Brokerage, Inc.) to the account owner, but it is unclear how it is possible to be certain that withdrawals are made for educational purposes and should not be subject to penalties imposed on nonqualified withdrawals. In response to a question, the Treasurer's Office was asked to provide additional information about participation in the program by out-of-state residents.

Education Legislation Enacted by the 2002 Legislature

The staff presented information about bills enacted by the 2002 Legislature that deal with elementary-secondary and postsecondary education (Attachment 7). In connection with legislation affecting the Board of Regents, Senator Oleen asked staff from the Board to compile a list of additional duties imposed on the Board by recent enactments of the Legislature, along with a list of requests made for additional staff and funding for the Board office. She also asked Committee staff to indicate which legislation enacted by the 2002 Legislature originally was proposed by the Legislative Educational Planning Committee.

The meeting was adjourned.

Prepared by Carolyn Rampey

Approved by Committee on:

October 11, 2002