



• Responsive • Affordable • Accessible
• Quality Learning Opportunities

March 1, 2016

Chairman Masterson and Members of the Committee:

It is easy to explain why I am here on behalf of community colleges, but it is awkward. Our colleges educate more students than any other higher education sector. We do it efficiently, we do it affordably for our students and parents, and we are very responsive to our local taxpayers who support the bulk of the education happening at our colleges. We taught 123,000 students in 2014. (KBOR http://www.kansasregents.org/resources/Enrollment_Report_Presentation_2015.pdf)

We get very bright students, we get students needing remediation, and we give students who might not have a chance to get an education or skill any other way, because of the inability to relocate geographically or the inability to commute, or to afford tuition at a four year university, the chance to move up and earn a good living for themselves and their families.

There is only one higher education institutional type that is statutorily prohibited from teaching courses in certain counties in Kansas and getting paid for it, and that type is community colleges. That statute, K.S.A. 71-609, has been in place since 1973. The candid truth is, our colleges want an equal footing because of behavior which has occurred.

Service areas were community college gentlepersons' agreements not to offer courses in another community college's area. Our service areas cover the state except for Regent Universities' home counties which by statute, includes Saline County. It turns out, universities have service areas, too. But they take up the whole state, including community college home taxing districts and their service areas, except for Washburn who has Shawnee county. That works fairly well if they aren't soliciting our students until those students are ready to transfer. Or better yet, if they are working with us in partnerships to create pathways for students or a "Through in Three Program" or 2 + 2 program.

This year, our colleges' students, specifically those in south central Kansas, who are concurrently high school students taking college courses, are being aggressively solicited by a major public university who was given approval by the Board of Regents to charge \$100 per course (whether three hours or five hours) and then that university has offered to scholarship that \$100 to any student on free or reduced lunches. Those students are in community college service areas, and home taxing districts.

We have raised this problem with the Board of Regents' CEO. Seeing no relief, we therefore are here

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today asking you to give us the right to protect our students and school districts from this aggressive solicitation. Based upon comments made by that university's CEO, we have reason to believe it is not only our concurrent enrollments that are at risk. Our Presidents have spoken with that CEO, but there has been no relief or expressed desire to partner.

Community colleges support and believe in free and open markets and can compete in those markets. In a "free and open market" there are laws - antitrust laws - that prohibit monopolization of a particular sector of the economy. The courts have held that antitrust laws apply to institutes of higher education. An exception to the application of antitrust laws is the concept of "public utilities." In simplest terms, A **public utility** (usually just **utility**) is an organization that maintains the infrastructure for a public service (often also providing a service using that infrastructure). Public utilities are subject to forms of public control and regulation ranging from local community-based groups to statewide government monopolies.

Here, the higher education system *i.e.* public utility is governed or coordinated by KBOR. As part of the "system" KBOR has adopted 'service areas' to restrict community colleges. Unfortunately, the governing body (KBOR) did NOT apply the standards to the universities as it applies to the coordinated colleges, only with regard to each other. Further it has "approved" below market pricing (predatory pricing) and "scholarships" to achieve the stated goal as proclaimed by the University President to "control education in south central Kansas from GED to PhD." What is more alarming is that KBOR made this decision void of any public input or economic analysis with those affected. By default, we have state sponsored predatory pricing in a public utility infrastructure where only one segment - the community colleges - are being forced to follow the restrictions.

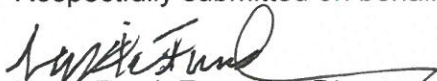
The courts have reviewed similar activities - price fixing - of privately owned higher ed institutions and held that "tuition is the price at which colleges sell their educational services. Financial aid—in the form of scholarships, low interest loans, and subsidized employment—is a discount from that price. This is clearly a commercial activity. 'Discounting the price of educational services is not charity when a university receives tangible benefits in exchange.'" Here the benefit is the attraction of students.

Having said all of that, we believe partnering, not predatory pricing is the best public policy.

We believe that by partnering with universities, we can have the very best environment for higher education certificates and degrees and in fact, help KBOR reach its goal of 60% of Kansans credentialed or degreed by 2020. Moving students from one sector to another will not accomplish that goal. Gutting community college enrollments will not help with that goal.

All we are asking, is an equal footing. Colleges and universities should ask and be granted permission before they come into our service area to offer what we are already offering. Or, we shouldn't have to ask to go into their main campus or home county. It all works if the university doesn't come after the high school or freshman and sophomore students that we work so diligently with to ensure success. This bill is a compromise, which asks that we be afforded the same rights that universities have been given. We would ask that the four balloon amendments on the attached copy of the bill be added for clarity. We would appreciate your favorable consideration and passage of SB 420 with balloon amendments.

Respectfully submitted on behalf of the community colleges,


Linda Fund, Executive Director