

SENATE BILL No. 354

By Committee on Education

2-3

1 AN ACT concerning postsecondary education; relating to the regulation of
2 private and out-of-state educational institutions by the state board of
3 regents; certificates of approval; student protections; rules and
4 regulations; amending K.S.A. 74-32,162, 74-32,163, 74-32,164, 74-
5 32,165, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,171, 74-
6 32,172, 74-32,173, 74-32,175, 74-32,177, 74-32,178, 74-32,181, 74-
7 32,182, 74-32,184, 74-32,194, 74-32,417 and 74-32,419 and repealing
8 the existing sections.
9

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

11 New Section 1. (a) Any institution that is exempt from the private and
12 out-of-state postsecondary educational institution act pursuant to K.S.A.
13 74-32,164(e), and amendments thereto, may apply to the state board for a
14 certificate of approval under the provisions of such act if the institution is
15 required to obtain a certificate of approval from the state board in order to
16 demonstrate it is legally authorized to provide an educational program
17 under 34 C.F.R. § 600.9, as in effect on July 1, 2020, for participation in
18 programs authorized by the higher education act of 1965.

19 (b) Any institution issued a certificate of approval by the state board
20 under this section shall be subject to the jurisdiction of the state board and
21 the private and out-of-state postsecondary educational institution act.

22 (c) Any institution issued a certificate of approval under this section
23 may return to exempt status under the private and out-of-state
24 postsecondary educational institution act by not applying to renew the
25 certificate of approval. Any institution that returns to exempt status, shall
26 not be relieved of any liability for indemnification or any penalty for
27 noncompliance with certification standards during the period of the
28 institution's approved status.

29 New Sec. 2. (a) Each certificate of approval shall be issued to the
30 owner of the institution applying for the certificate of approval. The
31 certificate of approval shall not be transferable to a new owner. Whenever
32 a change of ownership occurs as a result of death, a court order or
33 operation of law, the new owner shall immediately apply for a new
34 certificate of approval. If a change in ownership occurs in any other
35 circumstance, the new owner shall apply for a new certificate of approval
36 at least 60 days prior to the change of ownership.

1 (b) If there is a change in the ownership of an institution and, at the
2 same time, there are changes in the institution's programs of instruction,
3 location, entrance requirements or other changes, the institution shall
4 submit an application for an initial certificate of approval and pay all
5 applicable fees required for an initial application.

6 (c) The state board may adopt rules and regulations to ensure orderly
7 transition of an institution to a new owner, including, but not limited to,
8 requiring a new owner to satisfy the following requirements:

9 (1) Maintain and service all student records that were the
10 responsibility of the prior owner;

11 (2) resolve all student complaints that were the responsibility of the
12 prior owner and filed with the state board prior to the final approval for
13 change of ownership; and

14 (3) honor the terms of student enrollment agreements, institutional
15 scholarships and grants for all students enrolled and taking classes at the
16 time of the change of ownership.

17 New Sec. 3. If a court of competent jurisdiction appoints a receiver
18 for an institution holding a certificate of approval, the receiver shall
19 provide the state board notice of the appointment and copies of all court
20 orders and reports required from the receiver by the court. The court-
21 appointed receiver shall comply with all provisions of the Kansas private
22 and out-of-state postsecondary educational institution act.

23 New Sec. 4. (a) In addition to, or as an alternative to any penalty that
24 may be imposed pursuant to this act, the state board, after proper notice
25 and an opportunity to be heard, may assess a civil fine against an
26 institution with a certificate of approval for a violation of this act or any
27 rules and regulations adopted pursuant to this act. For the first violation,
28 the amount of such fine shall be up to 1% of the institution's tuition
29 revenue, but shall not be less than \$125 and not more than \$15,000. For
30 any subsequent violation, the amount of such fine shall be up to 2% of the
31 institution's tuition revenue, but shall not be less than \$250 and not more
32 than \$20,000. On and after July 1, 2021, any such fines and administrative
33 costs for collecting such fines may be assessed against the institution's
34 surety bond.

35 (b) All moneys collected pursuant to this section shall be remitted to
36 the state treasurer in accordance with K.S.A. 75-4215, and amendments
37 thereto. Upon receipt of each such remittance, the state treasurer shall
38 deposit the entire amount in the state treasury to the credit of the state
39 general fund.

40 (c) Fines assessed under this section shall be considered
41 administrative fines pursuant to 11 U.S.C. § 523.

42 Sec. 5. K.S.A. 74-32,162 is hereby amended to read as follows: 74-
43 32,162. K.S.A. 74-32,163 through 74-32,184, and amendments thereto,

1 *and sections 1 through 4, and amendments thereto*, shall be known and
2 may be cited as the Kansas private and out-of-state postsecondary
3 educational institution act.

4 Sec. 6. K.S.A. 74-32,163 is hereby amended to read as follows: 74-
5 32,163. As used in the Kansas private and out-of-state postsecondary
6 educational institution act:

7 (a) "Academic degree" means any associate, bachelor's, professional,
8 master's, specialist or doctoral degree.

9 (b) "Accreditation" means an accreditation by an agency recognized
10 by the United States department of education.

11 (c) "Branch campus" means any subsidiary place of business
12 maintained within the state of Kansas by an institution at a site ~~which~~ *that*
13 is separate from the site of the institution's principal place of business and
14 ~~at which~~ *where* the institution offers a course or courses of instruction or
15 study identical to the course or courses of instruction or study offered by
16 the institution at its principal place of business.

17 (d) "Distance education" means ~~any course delivered primarily by use~~
18 ~~of correspondence study, audio, video or computer technologies~~
19 *instruction offered by any means in which the student and faculty member*
20 *are in separate physical locations. "Distance education" includes, but is*
21 *not limited to, online, interactive video and correspondence courses or*
22 *programs.*

23 (e) "Out-of-state postsecondary educational institution" means a
24 postsecondary educational institution, *public or private, for-profit or not-*
25 *for-profit, that is* chartered, incorporated or otherwise organized under the
26 laws of any jurisdiction other than the state of Kansas.

27 (f) "Institution" means an out-of-state or private postsecondary
28 educational institution.

29 (g) "Institution employee" means any person, other than an owner,
30 who directly or indirectly receives compensation from an institution for
31 services rendered.

32 (h) "Owner of an institution" means:

33 (1) In the case of an institution owned by ~~an individual, that~~
34 ~~individual~~ *one or more individuals, those individuals;*

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

37 (3) in the case of an institution owned by a corporation, the
38 corporation, its directors, officers and each shareholder owning shares of
39 issued and outstanding stock aggregating at least 10% of the total of the
40 issued and outstanding shares; and

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

43 (i) "Person" means an individual, firm, partnership, association ~~or,~~

1 corporation, *receiver or trustee*.

2 (j) "Physical presence" means:

3 (1) ~~The employment in Kansas of a Kansas resident for the purpose~~
4 ~~of administering, coordinating, teaching, training, tutoring, counseling,~~
5 ~~advising or any other activity on behalf of the institution; or~~ *Operating an*
6 *instructional site in Kansas, including, but not limited to:*

7 (A) *Establishing a physical location in Kansas where students receive*
8 *instruction; or*

9 (B) *delivering a course or program that requires students*
10 *participating in that course or program to physically meet at the same*
11 *time and place in Kansas to receive instruction;*

12 (2) ~~The delivery of, or the intent to deliver, instruction in Kansas with~~
13 ~~the assistance from any entity within the state in delivering the instruction~~
14 ~~including, but not limited to, a cable television company or a television~~
15 ~~broadcast station that carries instruction sponsored by the~~
16 ~~institution.~~ *delivering any distance education course to any student who*
17 *remains in Kansas while participating in such course; or*

18 (3) *maintaining an administrative office in Kansas for the purpose of*
19 *fulfilling the administrative functions of delivering instruction, whether*
20 *face-to-face or via distance education.*

21 (k) "Private postsecondary educational institution" means an entity
22 ~~which that:~~

23 (1) Is a business enterprise, whether operated on a ~~profit for-profit~~ or
24 not-for-profit basis, ~~which that~~ has a physical presence ~~within the state of~~
25 ~~in Kansas or which solicits business within the state of Kansas;~~

26 (2) offers a course or courses of instruction or study through
27 classroom contact or by distance education, or both, for the purpose of
28 training or preparing ~~persons~~ *individuals* for a field of endeavor in a
29 business, trade, technical or industrial occupation, or ~~which~~ offers a course
30 or courses leading to an academic degree; and

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

32 (l) "*Provisional certificate*" means *a certificate of approval that can*
33 *be awarded to a degree-granting institution seeking to establish a physical*
34 *presence in Kansas but is not yet accredited by a recognized accrediting*
35 *organization. A "provisional certificate" constitutes authorization to*
36 *operate in Kansas but only under certain conditions deemed necessary by*
37 *the state board, including, but not limited to, reporting requirements or*
38 *securing new or additional bonds.*

39 (m) "Representative" means any person employed by an institution to
40 act as an agent, solicitor or broker to ~~procure~~ *recruit* students or enrollees
41 for the institution.

42 ~~(nn)~~(n) "State board" means the state board of regents or the *state*
43 board's designee.

1 ~~(n)~~(o) "Support" or "supported" means the primary source and means
2 by which an institution derives revenue to perpetuate operation of the
3 institution.

4 ~~(o)~~(p) "University" means a postsecondary educational institution
5 authorized to offer any degree, including ~~an associate~~, bachelor, graduate
6 or professional degree.

7 ~~(p)~~(q) "State educational institution" means any state educational
8 institution as defined ~~by~~ *in* K.S.A. 76-711, and amendments thereto.

9 Sec. 7. K.S.A. 74-32,164 is hereby amended to read as follows: 74-
10 32,164. The Kansas private and out-of-state postsecondary educational
11 institution act shall not apply to:

12 (a) ~~An institution supported primarily by Kansas taxation from either~~
13 ~~a local or state source~~ *Postsecondary educational institutions established,*
14 *operated and governed by this state or a political subdivision thereof;*

15 (b) an institution or training program ~~which~~ *that* offers instruction
16 only for avocational or recreational purposes as determined by the state
17 board;

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

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

26 (e) *except as provided in section 1, and amendments thereto,* an
27 institution ~~which~~ *that* is otherwise actively regulated ~~and approved by~~
28 *another regulatory agency of Kansas* under any other law of ~~this state~~
29 *Kansas and has received an affirmative approval from such other agency*
30 *to operate in Kansas;*

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

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

40 ~~(h) the Kansas City college and bible school, inc.;~~

41 ~~(i) Cleveland university-Kansas City~~ *education offered as an intensive*
42 *review course solely designed to prepare students for graduate or*
43 *professional school entrance examinations or professional licensure*

1 examinations, including, but not limited to, certified public accountancy
 2 examinations, examinations for a professional practice in psychology or
 3 bar examinations;

4 ~~(i)~~ ~~any~~ ~~each~~ ~~of~~ ~~the~~ ~~following~~ postsecondary educational ~~institution~~
 5 ~~institutions~~, all of which ~~was~~ ~~were~~ granted approval to confer academic or
 6 honorary degrees by the state board of education under the provisions of
 7 K.S.A. 17-6105, prior to its repeal, ~~or were previously exempted from this~~
 8 ~~act by the legislature and that have approval to confer academic or~~
 9 ~~honorary degrees in calendar year 2020:~~

- 10 (1) Baker university, Baldwin City;
- 11 (2) Barclay college, Haviland;
- 12 (3) Benedictine college, Atchison;
- 13 (4) Bethany college, Lindsborg;
- 14 (5) Bethel college, North Newton;
- 15 (6) Central Baptist theological seminary, Kansas City;
- 16 (7) Central Christian college, McPherson;
- 17 (8) Cleveland university, Kansas City;
- 18 (9) Donnelly college, Kansas City;
- 19 (10) Friends university, Wichita;
- 20 (11) Hesston college, Hesston;
- 21 (12) Kansas Christian college, Overland Park;
- 22 (13) Kansas Wesleyan university, Salina;
- 23 (14) Manhattan Christian college, Manhattan;
- 24 (15) McPherson college, McPherson;
- 25 (16) MidAmerica Nazarene university, Olathe;
- 26 (17) Newman university, Wichita;
- 27 (18) Ottawa university, Ottawa;
- 28 (19) Southwestern college, Winfield;
- 29 (20) Sterling college, Sterling;
- 30 (21) Tabor college, Hillsboro; and
- 31 (22) University of Saint Mary, Leavenworth; and

32 ~~(j)~~ any institution that does not have a physical presence in Kansas
 33 and that is otherwise subject to this act, but only to the extent that and for
 34 the period of time that such institution is participating in the state
 35 authorization reciprocity agreement as authorized under K.S.A. 74-32,194,
 36 and amendments thereto, for the purpose of providing distance education
 37 to students in ~~this state~~ *Kansas*. As used in this subsection, ~~the term~~
 38 ~~"distance education" has the meaning ascribed thereto~~ *means the same as*
 39 *defined in K.S.A. 74-32,194, and amendments thereto.*

40 Sec. 8. K.S.A. 74-32,165 is hereby amended to read as follows: 74-
 41 32,165. (a) (1) The state board may adopt rules and regulations for the
 42 administration of this act.

- 43 (2) *The state board shall adopt rules and regulations that impose*

1 *requirements on any postsecondary institution that is closing. Such rules*
2 *and regulations may include, but not be limited to, notice requirements,*
3 *teach-out plans, maintenance of academic records, refund requirements*
4 *and transcript requests.*

5 (b) (1) Specific standards shall be set for determining those
6 institutions ~~which~~ *that* qualify for approval to confer or award academic
7 degrees. Such standards shall be consistent with standards applicable to
8 state educational institutions under the control and supervision of the state
9 board.

10 (2) *Each degree-granting institution shall make progress toward*
11 *institutional accredited status with an accrediting agency for higher*
12 *education recognized by the United States department of education. Once*
13 *institutional accredited status is achieved by an institution, such degree-*
14 *granting institution shall maintain accredited status. The provisions of this*
15 *paragraph shall not apply to any private postsecondary educational*
16 *institution that was awarded degree-granting authority prior to July 1,*
17 *2004, and maintains such authority on July 1, 2020.*

18 (3) *Additional standards may be set for those institutions that receive*
19 *federal title IV student financial aid, including, but not limited to,*
20 *requiring audited financial statements. The state board may grant*
21 *exceptions to the additional standards by the adoption of rules and*
22 *regulations.*

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

25 (d) Any state agency having information ~~which~~ *that* will enable the
26 state board to exercise its powers and perform its duties in administering
27 the provisions of this act shall furnish such information when requested by
28 the state board.

29 Sec. 9. K.S.A. 74-32,167 is hereby amended to read as follows: 74-
30 32,167. (a) No institution ~~may operate~~ *shall establish a physical presence*
31 ~~within this state~~ *Kansas* without obtaining a certificate of approval from
32 the state board as provided in this act. No institution shall confer or award
33 any degree, certificate or diploma, whether academic or honorary, unless
34 such institution has been approved for such purpose by the state board.

35 (b) Any contract entered into by or on behalf of any owner, employee
36 or representative of an institution ~~which~~ *that* is subject to the provisions of
37 this act; but ~~which~~ has not obtained a certificate of approval, shall be
38 unenforceable in any action.

39 Sec. 10. K.S.A. 74-32,168 is hereby amended to read as follows: 74-
40 32,168. (a) Each institution shall apply to the state board for a certificate of
41 approval. *At least 60 days before* an institution ~~which~~ *opens or maintains* a
42 branch campus *in Kansas, such institution* shall notify the state board that
43 ~~it has opened or is maintaining~~ *intends to open* a branch campus. Such

1 branch campus shall be subject to review by the state board to determine
2 whether it complies with the provisions of this act and the standards of the
3 state board established pursuant thereto.

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

7 (c) The state board may issue a certificate of approval upon
8 determination that an institution meets the *requirements of this act and all*
9 standards established by the state board *pursuant thereto*. The state board
10 may issue a certificate of approval to any institution accredited by a
11 regional or national accrediting agency recognized by the United States
12 department of education without further evidence.

13 (d) (1) *The state board may issue a provisional certificate of approval*
14 *to a degree-granting institution that is not yet accredited by a recognized*
15 *accrediting organization and that is seeking to establish a physical*
16 *presence in Kansas. The provisional certificate may be renewed annually*
17 *as long as the institution continues to progress toward successful*
18 *attainment of full institutional accreditation within the regular*
19 *accreditation cycle established by the recognized accrediting organization.*

20 (2) *The institution shall submit a plan for achieving accreditation.*
21 *Such plan shall include identification of the recognized accrediting*
22 *organization's eligibility requirements, minimum accreditation*
23 *requirements, review processes and the institution's timeline for achieving*
24 *full accreditation.*

25 (3) *The institution shall submit quarterly updates on the institution's*
26 *progress toward full accreditation to the state board.*

27 (4) *The state board may adopt rules and regulations imposing*
28 *additional surety bond requirements for the indemnification of any student*
29 *for any loss suffered as a result of a failure to achieve full accreditation.*

30 Sec. 11. K.S.A. 74-32,169 is hereby amended to read as follows: 74-
31 32,169. The state board shall issue a certificate of approval to an institution
32 when the state board is satisfied that the institution meets minimum
33 standards established by ~~the state board by adoption of this act, and by~~
34 rules and regulations *adopted pursuant to this act to* ~~insure~~ ensure that:

35 (a) Courses, curriculum and instruction are of such quality, content
36 and length as may reasonably and adequately ensure achievement of the
37 stated objective for which the courses, curriculum or instruction are
38 offered;

39 (b) institutions have adequate space, equipment, instructional material
40 and personnel to provide education and training of good quality;

41 (c) educational and experience qualifications of directors,
42 administrators and instructors are such as may reasonably ~~insure~~ ensure
43 that students will receive instruction consistent with the objectives of their

1 program of study;

2 (d) institutions maintain written records of the previous education and
3 training of students and applicant students, and that training periods are
4 shortened when warranted by such previous education and training or by
5 skill or achievement tests;

6 (e) *except as approved by the state board, no earned certificate or*
7 *degree is given, awarded or granted solely on the basis of any of the*
8 *following:*

9 (1) *Payment of tuition or fees;*

10 (2) *credit earned at any other school;*

11 (3) *credit for life experience or other equivalency;*

12 (4) *testing out; or*

13 (5) *research and writing;*

14 (f) *no honorary degree is given, awarded or granted by any*
15 *institution that does not give, award or grant an earned degree, and no fee*
16 *or other charge is assessed for giving, awarding or granting an honorary*
17 *degree;*

18 (g) a copy of the course outline, schedule of tuition, fees and other
19 charges, settlement policy, rules pertaining to absence, grading policy and
20 rules of operation and conduct are furnished to students upon ~~entry into~~
21 ~~class enrollment;~~

22 ~~(h)~~(h) upon completion of training or instruction, students are given
23 certificates, diplomas or degrees as appropriate by the institution
24 indicating satisfactory completion of the program;

25 ~~(i)~~(i) adequate records are kept to show attendance, satisfactory
26 academic progress and enforcement of satisfactory standards relating to
27 attendance, progress and conduct;

28 ~~(j)~~(j) institutions comply with all local, state and federal regulations;

29 ~~(k)~~(k) institutions are financially responsible and *maintain adequate*
30 *financial records, which for institutions receiving federal title IV student*
31 *financial aid, includes financial aid information and loan default rates;*

32 (l) *institutions are capable of fulfilling commitments for instruction;*

33 ~~(m)~~(m) institutions do not utilize erroneous or misleading advertising,
34 either by actual statement, omission or intimation;

35 ~~(n)~~(n) institutions have and maintain a policy, ~~which shall be~~ subject
36 to state board approval, for the refund of unused portions of tuition, fees
37 and other charges if a student enrolled by the institution fails to begin a
38 course ~~or, withdraws or is discontinued therefrom~~ *from such course* at any
39 time prior to completion. Such policies shall take into account those costs
40 of the institution that are not diminished by the failure of the student to
41 enter or complete a course of instruction; ~~and~~

42 ~~(o)~~(o) institutions adopt, publish and adhere to a procedure for
43 handling student complaints. Institutions shall post information so that

1 students will be aware of the complaint process available to them. The
 2 information shall be posted in locations that are used or seen by all
 3 students on a regular basis such as the institution's website, enrollment
 4 agreement, ~~catalogue~~ *catalog* or other media;

5 (p) *in accordance with applicable state and federal data protection*
 6 *laws, institutions take appropriate measures to protect students' personally*
 7 *identifiable information and promptly address any breach or unauthorized*
 8 *disclosure of any student's personally identifiable information;*

9 (q) *institutions publish the following information as required by the*
 10 *state board of regents:*

11 (1) *Graduation rates;*

12 (2) *placement rates and other information indicating actual*
 13 *employment and earnings in relevant occupations after successful*
 14 *completion of offered programs; and*

15 (3) *loan default rates.*

16 Sec. 12. K.S.A. 74-32,170 is hereby amended to read as follows: 74-
 17 32,170. (a) ~~After review of the state board reviews~~ an application for a
 18 certificate of approval and ~~if the state board~~ determines that the institution
 19 meets the requirements of this act and the standards established by the
 20 state board, the state board shall issue a certificate of approval to the
 21 institution. Certificates of approval shall be in a form specified by the state
 22 board. Certificates of approval shall state:

23 (1) The date of issuance and term of approval;

24 (2) the correct name and address of the institution;

25 (3) the signature of the chief executive officer of the state board or a
 26 person designated by the state board to administer the provisions of this
 27 act; and

28 (4) any other information required by the state board.

29 (b) Certificates of approval shall be valid for a term of one year.

30 (c) ~~Each certificate of approval shall be issued to the owner of an~~
 31 ~~institution and shall not be transferable. If a change in ownership of an~~
 32 ~~institution occurs, the new owner shall apply within 60 days prior to the~~
 33 ~~change in ownership for a new certificate of approval. The state board may~~
 34 ~~waive the sixty-day requirement upon determination that an emergency~~
 35 ~~exists and that the waiver and change in ownership would be in the best~~
 36 ~~interests of students currently enrolled in the institution. Whenever a~~
 37 ~~change in ownership occurs as a result of death, court order or operation of~~
 38 ~~law, the new owner shall apply immediately for a new certificate of~~
 39 ~~approval pursuant to section 2, and amendments thereto.~~

40 (d) At least 120 days prior to expiration of a certificate of approval,
 41 the state board shall ~~forward to notify~~ the institution a ~~renewal application~~
 42 ~~form~~ that it is required to renew its certificate of approval in order to
 43 continue maintaining a physical presence in Kansas after the expiration

1 *date of its current certificate of approval.* Any institution desiring to renew
 2 its certificate of approval; shall complete and submit the application for
 3 renewal to the state board at least 60 days prior to the expiration of the
 4 institution's certificate of approval. *An application for renewal shall be*
 5 *deemed late if the institution applying for renewal fails to submit a*
 6 *completed application for renewal at least 60 days prior to the expiration*
 7 *of the institution's certificate of approval. A completed application for*
 8 *renewal includes all documentation, information and fees required by the*
 9 *state board to complete the renewal process. When an application for*
 10 *renewal is deemed late, the state board may require the institution to begin*
 11 *the closure procedure.*

12 (e) Unless exempt from the provisions of this act pursuant to K.S.A.
 13 74-32,164, and amendments thereto, an institution shall not accept
 14 payments for tuition, fees or other enrollment charges until the institution
 15 receives a certificate of approval from the state board.

16 (f) Any institution ~~which~~ *that* does not plan to renew a certificate of
 17 approval shall notify the state board of its intent not to renew at least 60
 18 days prior to the expiration date of the certificate of approval.

19 (g) *Any institution that is closing, either voluntarily or involuntarily,*
 20 *shall be subject to closure requirements until the state board notifies the*
 21 *institution that all closure requirements are satisfied.*

22 Sec. 13. K.S.A. 74-32,171 is hereby amended to read as follows: 74-
 23 32,171. (a) ~~After review of the state board reviews~~ an application for a
 24 certificate of approval and ~~if the state board~~ determines that the applicant
 25 does not meet the requirements of this act, the state board shall refuse to
 26 issue the certificate *of approval* and set forth the reasons for the
 27 determination.

28 (b) If an applicant, upon written notification of refusal by the state
 29 board to issue a certificate of approval, desires to contest such refusal, the
 30 applicant shall notify the state board in writing; *of the desire to be heard*
 31 ~~within 15 days after the date of service of such notice of refusal, of the~~
 32 ~~desire to be heard. Such.~~ *Any applicant requesting a hearing pursuant to*
 33 *this section shall be afforded a hearing in accordance with the provisions*
 34 *of the Kansas administrative procedure act. Upon conclusion of any such*
 35 *hearing, the state board shall issue a certificate of approval or a final*
 36 *refusal to do so.*

37 (c) If an applicant, upon service of notice of refusal by the state board
 38 to issue a certificate of approval, fails to request a hearing within 15 days
 39 after the date of service of such notice of refusal, the state board's refusal
 40 shall be *a final agency action.*

41 Sec. 14. K.S.A. 74-32,172 is hereby amended to read as follows: 74-
 42 32,172. (a) The state board may revoke a certificate of approval or impose
 43 reasonable conditions upon the continued approval represented by a

1 certificate. ~~Prior to revocation or imposition of conditions upon a~~
2 ~~certificate of approval, the state board shall give written notice to the~~
3 ~~holder of the certificate of the impending action setting forth the grounds~~
4 ~~for the action contemplated to be taken and affording a hearing on a date~~
5 ~~within 30 days after the date of such notice. Hearings under this section~~
6 ~~shall be conducted in accordance with the provisions of the Kansas~~
7 ~~administrative procedure act.~~

8 (b) A certificate of approval may be revoked ~~or conditioned~~ if the
9 state board has reasonable cause to believe that the institution is in
10 violation of any provision of this act or of any rules and regulations
11 adopted under this act. *An institution that has had a certificate of approval*
12 *revoked may not reapply for a certificate of approval for 12 months after*
13 *the final order of revocation, and then only if the institution establishes to*
14 *the satisfaction of the state board that it has cured all deficiencies. Prior*
15 *to revocation, the state board shall give written notice to the holder of the*
16 *certificate of approval of the impending action, setting forth the grounds*
17 *for the action contemplated to be taken and affording the institution*
18 *holding the certificate of approval an opportunity to request a hearing. If*
19 *a hearing is requested, such hearing shall be conducted within 30 days*
20 *after the date the notice was sent. Hearings conducted pursuant to this*
21 *subsection shall be conducted in accordance with the Kansas*
22 *administrative procedure act.*

23 (c) *A certificate of approval may be conditioned at any time if the*
24 *state board has reasonable cause to believe additional information is*
25 *necessary, a violation of this act occurred or it is in the students' best*
26 *interest for the institution to continue operations during a change in*
27 *ownership or while an institution is completing closure requirements. A*
28 *certificate of approval that has been conditioned constitutes authorization*
29 *to operate but with conditions, including, but not limited to, reporting*
30 *requirements, performance standard requirements, securing new or*
31 *additional bonds, limiting the period of time to operate during change or*
32 *ownership or for the purpose of teaching out students. The state board*
33 *may require any institution with a certificate of approval that has been*
34 *conditioned to suspend or cease any part of institutional activity,*
35 *including, but not limited to, enrolling students, advertising or delivering*
36 *certain classes or programs. Such conditions shall remain in effect until*
37 *the circumstances precipitating the conditional status are corrected, and*
38 *the state board has completed all reviews relating to the institution's*
39 *conditional status. The state board's decision to impose reasonable*
40 *conditions shall be a final agency action.*

41 Sec. 15. K.S.A. 74-32,173 is hereby amended to read as follows: 74-
42 32,173. Any action of the state board pursuant to K.S.A. 74-32,170, 74-
43 32,171 or 74-32,172, and amendments thereto, *or section 4, and*

1 *amendments thereto*, is subject to review in accordance with the Kansas
 2 judicial review act. If it appears to the state board on the basis of its own
 3 inquiries or investigations or as a result of a complaint that any provision
 4 of this act has been or may be violated, the state board may request the
 5 attorney general to institute an action enjoining such violation or for an
 6 order directing compliance with the provisions of this act.

7 Sec. 16. K.S.A. 74-32,175 is hereby amended to read as follows: 74-
 8 32,175. (a) Before a certificate of approval is issued under this act, a bond
 9 in the penal sum of \$20,000 shall be provided by the institution for the
 10 period for which the certificate of approval is to be issued. The obligation
 11 of the bond shall be that the institution and its officers, agents,
 12 representatives and other employees shall be bound; *to*:

13 (1) *Comply with the provisions of this act and the rules and*
 14 *regulations and standards established by the state board pursuant to this*
 15 *act, including, but not limited to, protecting students' personally*
 16 *identifiable information; and*

17 (2) *upon closure of the institution, or if the institution is no longer*
 18 *seeking state board approval,*~~to~~ *deliver or make available to the state*
 19 *board the records of all students who are in attendance at the institution at*
 20 *the time of closure or who have attended the institution at any time prior to*
 21 *closure.*

22 (b) The bond shall be a corporate surety bond issued by a company
 23 authorized to do business in this state *on a form required by the state*
 24 *board*. The bond shall be filed with the state board. If the institution ceases
 25 operation, the state board may recover against the bond all necessary costs
 26 for the acquisition, permanent filing and maintenance of student records of
 27 the institution.

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

33 Sec. 17. K.S.A. 74-32,177 is hereby amended to read as follows: 74-
 34 32,177. (a) No person shall:

- 35 (1) Operate an institution without a certificate of approval;
 36 (2) ~~solicit prospective students without being registered as required~~
 37 ~~by this act;~~
 38 (3) accept contracts or enrollment applications from a representative
 39 who is not registered as required by this act;
 40 (3) *use fraud or misrepresentation to obtain a certificate of approval;*
 41 (4) use fraud or misrepresentation in advertising or in procuring
 42 enrollment of a student;
 43 (5) use the term "accredited" in the name or advertisement of the

1 institution unless such institution is accredited as defined in this act; ~~and~~
 2 *or*

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

5 (b) Violation of any provision of subsection (a) ~~or~~ ~~of~~ any other
 6 provision of this act is a class C nonperson misdemeanor.

7 (c) *The state board may revoke or condition a certificate of approval*
 8 *for any violation of subsection (a) or any other provision of this act.*

9 Sec. 18. K.S.A. 74-32,178 is hereby amended to read as follows: 74-
 10 32,178. Upon application of the attorney general or a county or district
 11 attorney, a district court shall have jurisdiction to enjoin any violation of
 12 this act and to enjoin persons from engaging in business in this state. In
 13 any action brought to enforce the provisions of this act, if the court finds
 14 that a person willfully used any deceptive or misleading act or practice or
 15 operates an institution without first obtaining and maintaining a certificate
 16 of approval, the attorney general or a county or district attorney, upon
 17 petition 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 ~~\$5,000~~
 19 *\$20,000* for each violation. For purposes of this section, an intentional
 20 violation 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~~ *that* were deceptive or misleading including the operation of an
 23 institution without first obtaining a certificate of approval from the state
 24 board. Any violation of this act or any rule or regulation adopted pursuant
 25 thereto is a deceptive act or practice under the Kansas consumer protection
 26 act. Any remedy provided by this act shall be in addition to any other
 27 remedy provided by the Kansas consumer protection act.

28 Sec. 19. K.S.A. 74-32,181 is hereby amended to read as follows: 74-
 29 32,181. (a) The state board shall fix, charge and collect fees not to exceed
 30 the following amounts by adopting rules and regulations for such
 31 purposes:

32 (1) For institutions chartered, incorporated or otherwise organized
 33 under the laws of Kansas and having their principal place of business
 34 ~~within the state of~~ *in* Kansas:

35 Initial application fees:

36 Non-degree granting institution.....\$2,000

37 Degree granting institution.....\$3,000

38 Initial evaluation fee (in addition to initial application fees):

39 Non-degree level.....\$750

40 Associate degree level.....\$1,000

41 Baccalaureate degree level.....\$2,000

42 Master's degree level.....\$3,000

43 Professional or doctoral degree level.....\$4,000

1	Renewal application fees:	
2	Non-degree granting institution.....	Up to 2% of gross tuition,
3		but not less than \$500, nor more than \$25,000
4	Degree granting institution.....	Up to 2% of gross tuition,
5		but not less than \$1,000, nor more than \$25,000
6	New program submission fees, for each new program:	
7	Non-degree program.....	\$250
8	Associate degree program.....	\$500
9	Baccalaureate degree program.....	\$750
10	Master's degree program.....	\$1,000
11	Professional or doctoral degree program.....	\$2,000
12	Branch campus site fees, for each branch campus site:	
13	Initial non-degree granting institution.....	\$1,500
14	Initial degree granting institution.....	\$2,500
15	Renewal branch campus site fees, for each branch campus site:	
16	Non-degree granting institution.....	Up to 2% of gross tuition,
17		but not less than \$500, nor more than \$25,000
18	Degree granting institution.....	Up to 2% of gross tuition,
19		but not less than \$1,000, nor more than \$25,000
20	Representative fees:	
21	Initial registration.....	\$200
22	Late submission of renewal of application fee.....	\$500
23	Student transcript copy fee.....	\$10
24	Returned check fee.....	\$50
25	(2) For institutions domiciled or having their principal place of	
26	business outside the state of Kansas:	
27	Initial application fees:	
28	Non-degree granting institution.....	\$4,000
29	Degree granting institution.....	\$5,500
30	Initial evaluation fee (in addition to initial application fees):	
31	Non-degree level.....	\$1,500
32	Associate degree level.....	\$2,000
33	Baccalaureate degree level.....	\$3,000
34	Master's degree level.....	\$4,000
35	Professional or doctoral degree level.....	\$5,000
36	Renewal application fees:	
37	Non-degree granting institution.....	Up to 3% of gross tuition,
38		but not less than \$1,000, nor more than \$25,000
39	Degree granting institution.....	Up to 3% of gross tuition,
40		but not less than \$2,000, nor more than \$25,000
41	New program submission fees, for each new program:	
42	Non-degree program.....	\$500
43	Associate degree program.....	\$750

1	Baccalaureate degree program.....	\$1,000
2	Master's degree program.....	\$1,500
3	Professional or doctoral degree program.....	\$2,500
4	Branch campus site fees, for each branch campus site:	
5	Initial non-degree granting institution.....	\$4,000
6	Initial degree granting institution.....	\$5,500
7	Renewal branch campus site fees, for each branch campus site:	
8	Non-degree granting institution.....	Up to 3% of gross tuition,
9		but not less than \$1,000, nor more than \$25,000
10	Degree granting institution.....	Up to 3% of gross tuition,
11		but not less than \$2,000, nor more than \$25,000
12	Representative fees:	
13	Initial registration.....	\$350
14	Late submission of renewal of application fee.....	\$500
15	Student transcript copy fee.....	\$10
16	Returned check fee.....	\$50

17 (b) Fees shall not be refundable.

18 (c) ~~If there is a change in the ownership of an institution and, if at the~~
19 ~~same time, there also are changes in the institution's programs of~~
20 ~~instruction, location, entrance requirements or other changes, the~~
21 ~~institution shall be required to submit an application for an initial~~
22 ~~certificate of approval and shall pay all applicable fees associated with an~~
23 ~~initial application.~~

24 (d) ~~An application for renewal shall be deemed late if the applicant~~
25 ~~fails to submit a completed application for renewal, including all required~~
26 ~~documentation, information and fees requested by the state board to~~
27 ~~complete the renewal process, at least 60 days prior to the expiration of the~~
28 ~~institution's certificate of approval.~~

29 (e) ~~The state board shall annually determine on or before June 1 of~~
30 ~~each year the amount of revenue which that will be required to properly~~
31 ~~carry out and enforce the provisions of the Kansas private and out-of-state~~
32 ~~postsecondary educational institution act for the next ensuing fiscal year~~
33 ~~and shall fix the fees authorized for such year at the sum deemed necessary~~
34 ~~for such purposes within the limits of this section.~~

35 (f)(d) Fees may be charged to conduct on-site reviews for degree
36 granting and non-degree granting institutions or to review curriculum in
37 content areas where the state board does not have expertise.

38 Sec. 20. K.S.A. 74-32,182 is hereby amended to read as follows: 74-
39 32,182. (a) The state board shall remit all moneys received pursuant to the
40 provisions of this act to the state treasurer. Upon receipt of each such
41 remittance, the state treasurer shall deposit the entire amount remitted in
42 the state treasury and, *except as otherwise provided in this act*, shall credit
43 ~~the same such remittance~~ to the private and out-of-state postsecondary

1 educational institution fee fund to be used for the purpose of administering
2 this act. All expenditures from such fee fund shall be made in accordance
3 with appropriations acts upon warrants of the director of accounts and
4 reports issued pursuant to vouchers approved by the state board or the
5 board's designee.

6 (b) On or before the 10th of each month, the director of accounts and
7 reports shall transfer from the state general fund to the private and out-of-
8 state postsecondary educational institution fee fund interest earnings based
9 on:

10 (1) The average daily balance of moneys in such fee fund for the
11 preceding month; and

12 (2) the net earnings rate for the pooled money investment portfolio
13 for the preceding month.

14 Sec. 21. K.S.A. 74-32,184 is hereby amended to read as follows: 74-
15 32,184. Within the limits of appropriations therefore, the state board shall
16 develop and maintain a statewide data collection system to collect and
17 analyze private and out-of-state postsecondary educational information,
18 including, but not limited to, student, course, financial aid and program
19 demographics that will assist the *state* board in improving the quality of
20 private and out-of-state postsecondary education. *Failure of an institution*
21 *to submit complete and substantially accurate data on a timely basis when*
22 *requested by the state board shall be a violation of this act.*

23 Sec. 22. K.S.A. 74-32,194 is hereby amended to read as follows: 74-
24 32,194. (a) As used in this section:

25 (1) "Community college" means any community college established
26 under the laws of this state;

27 (2) "distance education" means any course or program offered by a
28 postsecondary educational institution to students who are located in a state
29 in which the postsecondary educational institution does not have a
30 physical presence;

31 (3) "independent postsecondary educational institution" means any
32 postsecondary educational institution ~~which~~ *that* was granted approval to
33 confer academic or honorary degrees by the state board of education under
34 the provisions of K.S.A. 17-6105, prior to its repeal;

35 (4) "municipal university" means Washburn university of Topeka or
36 any other municipal university established under the laws of this state;

37 (5) "out-of-state postsecondary educational institution" ~~has the~~
38 ~~meaning ascribed thereto~~ *means the same as defined in K.S.A. 74-32,163,*
39 *and amendments thereto;*

40 (6) "postsecondary educational institution" means any degree-
41 granting public postsecondary educational institution, independent
42 postsecondary educational institution, private postsecondary educational
43 institution and out-of-state postsecondary educational institution;

1 (7) "private postsecondary educational institution" ~~has the meaning~~
2 ~~ascribed thereto~~ *means the same as defined* in K.S.A. 74-32,163, and
3 amendments thereto;

4 (8) "public postsecondary educational institution" means any state
5 educational institution, municipal university, community college and
6 technical college, and includes any entity resulting from the consolidation
7 or affiliation of any two or more of such public postsecondary educational
8 institutions;

9 (9) "state authorization reciprocity agreement" means an agreement
10 among states, districts and territories that establishes comparable standards
11 for providing distance education from their postsecondary educational
12 institutions to out-of-state students;

13 (10) "state board" means the state board of regents;

14 (11) "state educational institution" ~~means any state educational~~
15 ~~institution;~~ *the same as defined* in K.S.A. 76-711, and amendments thereto;
16 and

17 (12) "technical college" means any technical college established
18 under the laws of this state.

19 (b) The state board is authorized to enter into the state authorization
20 reciprocity agreement for the purposes of:

21 (1) Authorizing and allowing any postsecondary educational
22 institution with a physical presence in Kansas to voluntarily participate in
23 the state authorization reciprocity agreement and provide distance
24 education in other states in accordance with the terms of the state
25 authorization reciprocity agreement; and

26 (2) authorizing and allowing any postsecondary educational
27 institution that does not have a physical presence in Kansas and that is a
28 participating member of the state authorization reciprocity agreement to
29 deliver distance education in this state in accordance with the terms of the
30 state authorization reciprocity agreement, notwithstanding the provisions
31 of the private and out-of-state postsecondary education institution act.

32 (c) A postsecondary educational institution shall be deemed to have a
33 "physical presence" in the state if the postsecondary education institution:

34 (1) Has established a campus, branch instructional facility or
35 administrative office within the boundaries of the state;

36 (2) requires students to physically meet for instruction within the state
37 more than twice per full term;

38 (3) provides information from a physical site located ~~within the state~~
39 *in Kansas*;

40 (4) offers short courses within the state requiring 10 or more hours of
41 attendance by students; or

42 (5) maintains a mailing address or phone exchange in ~~the state~~
43 *Kansas*.

1 (d) The state board may assume and exercise all powers, duties and
2 responsibilities associated with and required *or authorized* under the terms
3 of the state authorization reciprocity agreement for any postsecondary
4 educational institution ~~which~~ *that* has a physical presence in ~~the state~~
5 *Kansas* and has voluntarily submitted to the jurisdiction of the state board
6 to the extent required to enable the postsecondary educational institution to
7 participate in the state authorization reciprocity agreement.

8 (e) The state board may terminate membership or participation of any
9 postsecondary educational institution with a physical presence in Kansas
10 that is participating in the state authorization reciprocity agreement if the
11 state board has reasonable cause to believe that the postsecondary
12 educational institution is in violation of any provision of this section *or the*
13 *agreement*.

14 (f) The state board shall be authorized to recover actual costs incurred
15 in the course of investigating and prosecuting complaints against a
16 postsecondary educational institution that is participating in the state
17 authorization reciprocity agreement, and shall be able to recoup tuition on
18 behalf of any student. The amount collected by the state board for the
19 actual costs related to the investigation and prosecution of the complaint or
20 for tuition on behalf of any student, as certified by the president or chief
21 executive officer of the state board to the state treasurer, shall be deposited
22 in the state treasury in accordance with the provisions of K.S.A. 75-4215,
23 and amendments thereto, and ~~shall be~~ credited to the state authorization
24 reciprocity fund.

25 (g) There is hereby established in the state treasury the state
26 authorization reciprocity fund, which shall be administered by the state
27 board. All expenditures from the state authorization reciprocity fund shall
28 be for reimbursement to the state board for any costs associated with
29 investigating and prosecuting complaints and recovering tuition on behalf
30 of any student under the provisions of the state authorization reciprocity
31 agreement. All expenditures from the state authorization reciprocity fund
32 shall be made in accordance with appropriation acts upon warrants of the
33 director of accounts and reports issued pursuant to vouchers approved by
34 the president or chief executive officer of the state board or the designee of
35 the president or chief executive officer of the state board.

36 (h) Nothing in this section shall preclude the state board from
37 exercising its authority under any other provision of law, nor the attorney
38 general from pursuing violations of any provisions of the Kansas
39 consumer protection act.

40 (i) The state board may adopt rules and regulations as necessary to
41 implement the provisions of this section.

42 Sec. 23. K.S.A. 74-32,417 is hereby amended to read as follows: 74-
43 32,417. As used in this act:

1 (a) "Career technical education program" means a program of
2 vocational or technical training or retraining ~~which~~ *that* is operated at the
3 postsecondary level and is designed to prepare persons for gainful
4 employment.

5 (b) "Career technical education institution" means any technical
6 college, community college, municipal university, or any state educational
7 institution ~~which~~ *that* operates one or more career technical education
8 programs.

9 (c) "Community college," "institute of technology," "municipal
10 university," "state educational institution," "technical college," and "state
11 board" ~~have the meanings respectively ascribed thereto~~ *mean the same as*
12 *such terms are defined* in K.S.A. 74-32,407, and amendments thereto.

13 (d) ~~"Private postsecondary educational institution" and "out-of-state~~
14 ~~postsecondary educational institution" have the meanings ascribed thereto~~
15 ~~in K.S.A. 74-32,163, and amendments thereto.~~

16 (e) "Program" means the Kansas training information program
17 established by this act.

18 Sec. 24. K.S.A. 74-32,419 is hereby amended to read as follows: 74-
19 32,419. (a) Every career technical education institution ~~and private or out-~~
20 ~~of-state postsecondary educational institution~~ ~~which~~ *that* desires to
21 participate in the program; shall:

22 (1) On or before October 1 in each fiscal year, transmit *the following*
23 *information* to the state board:

24 (A) The social security number of each person who completed a
25 career technical education program operated by the career technical
26 education institution or private or out-of-state postsecondary educational
27 institution during the prior fiscal year; and

28 (B) such other information as the state board may require in order to
29 conduct follow-up surveys and studies ~~which~~ *that* will assist in the
30 evaluation of career technical education programs; and

31 (2) prior to or at the time of enrollment at the career technical
32 education institution ~~or private or out-of-state postsecondary educational~~
33 ~~institution~~, make available to persons enrolling in a vocational education
34 program the most current report published and distributed by the state
35 board.

36 (b) Information transmitted to the state board pursuant to subsection
37 (a)(1) shall be confidential and shall not be disclosed or made public in
38 such a manner that any individual person can be identified thereby.

39 Sec. 25. K.S.A. 74-32,162, 74-32,163, 74-32,164, 74-32,165, 74-
40 32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,171, 74-32,172, 74-
41 32,173, 74-32,175, 74-32,177, 74-32,178, 74-32,181, 74-32,182, 74-
42 32,184, 74-32,194, 74-32,417 and 74-32,419 are hereby repealed.

43 Sec. 26. This act shall take effect and be in force from and after its

- 1 publication in the statute book.