



**PROPONENT Testimony on HB 2070
For the House Taxation Committee
January 25, 2021
Matt Lindsey
President, Kansas Independent College Association**

Chairman Smith and members of the committee, thank you for the opportunity to provide proponent testimony in support of House Bill 2070 on behalf of Kansas' independent colleges.

HB 2070 is a mirror of a bill that this committee passed out unanimously in the 2020 session, but which was essentially lost due the COVID-19 pandemic.

Kansas' Independent Colleges:

KICA represents the twenty independent colleges of Kansas, all of which are not-for-profit institutions of higher education, all of which offer undergraduate degrees, all of which have their principal campus in Kansas, all of whom are regionally accredited by the Higher Learning Commission, and all of whom maintain an open enrollment policy consistent with Kansas statutes.

The state of Kansas, via the Kansas Board of Regents, has specific obligations governing "private and out-of-state" educational institutions, per the Private and Out-of-State Post-Secondary Educational Institutions Act. All twenty KICA institutions are exempt from that statute. Thus, for the independent members of KICA, KBOR has no governing role (as it does for the six 4-year Regents universities), coordinating role (as it does for the community colleges, technical colleges, and Washburn University) nor regulatory role (as it does for any for-profit college or college based outside of Kansas that wishes to operate here). Furthermore, KICA institutions do not receive any direct institution funding from the state of Kansas, as befits our independent status.

Current Law:

When a consumer uses a credit card to make a purchase of any kind, the credit card company – Visa, MasterCard, American Express – charges a surcharge to the merchant to process payment from that credit card. Kansas is one of just 10 states that do not allow merchants to recover this cost of accepting credit card payments by charging a surcharge or convenience fee to the end user, per K.S.A. 16a-2,403. Missouri, Iowa, and Nebraska have all moved to allow such surcharges to be passed on to the customer at the discretion of the seller.

However, Kansas does allow for state agencies to choose to pass the credit card surcharge on to the individual using a credit card to pay a bill. For instance, at the DMV a Kansan can be charged an additional fee to use a credit card to renew his or her vehicle tags. This allowance extends in Kansas law to any state or local governmental agency – including the Regents universities and community and technical colleges, per K.S.A. 75-30,100.

Thus, if a student or parent chooses to pay his or her tuition at the University of Kansas by credit card – and thereby earn miles or points or at least space out the payments according to their individual choice – KU is allowed under law to charge that student or parent the amount that Visa or American Express charges KU to process that payment. KU – and other institutions – are not *required* to pass that cost on to the person using the credit card, but they are *permitted* to do so. Likewise, colleges and universities in our surrounding states – whether public or private – can do the same.

The Competitive Imbalance:

Kansas law does not allow our own non-profit colleges to choose to pass this cost on. Instead, Kansas law requires non-profit colleges to absorb the credit card surcharge costs.

This prohibition creates a significant competitive imbalance against our in-state private colleges.

Because our colleges cannot choose to pass the surcharge on to those who use a credit card, we are forced to spread the cost across all students in the form of tuition increases. The median amount that these surcharges cost each institution in Kansas is \$88,584 per year, and for some schools this charge approaches \$200,000 per year. In total, it costs KICA institutions \$1.64 million in 2018-2019. The funds to pay that bill must come from somewhere, and our only remedy is tuition that is charged to all students, regardless of whether they pay with cash or credit.

Because KICA colleges must increase tuition to cover the costs of these surcharges, we are placed in a competitive disadvantage both against in-state institutions of higher education and regional competitors in other states (public and private). In the highly competitive market for college students in which the relatively non-selective, non-elite KICA colleges operate, this competitive disadvantage has strongly negative effects on our ability to keep talented Kansans in Kansas, recruit talented students from elsewhere, and educate them in a timely and affordable fashion so that they enter Kansas' workforce efficiently and with proper preparation to succeed.

Isn't This a Tuition Increase?

Passage of HB 2070 should not be viewed as allowing KICA colleges to increase tuition. In fact, it provides a lever by which we can control tuition increases that affect all students. Instead, the bill would properly assign the costs of using a credit card only to those who choose to do so. No one is forced to use a credit card, and by indicating that doing so has an increased fee may disincentive usage for those who wish to avoid higher tuition bills. Meanwhile, for those who already choose to pay in cash, they are not forced to shoulder the burden of the choice made by a limited pool of students.

Narrow Focus of HB 2070:

We deliberately worked to keep the focus on HB 2070 narrowly tailored and consulted with the Kansas Bankers Association and others to test our approach.

The central philosophy underlying HB 2070 is that the permission granted to pass on the credit card surcharge should include all Kansas-based educational entities, including the non-profit colleges. We already have an exemption for public education (K-12 schools and public colleges) in current law. The requested change would draw the circle such that non-profit colleges are considered part of that same ecosystem.

Conclusion

KICA and its member institutions urge you to recommend HB 2070 favorably for passage. Passage of HB 2070 would not cost the state any direct taxpayer funds and yet would strengthen the competitive position of all of Kansas higher education institutions – including private colleges.

Thank you for the opportunity to come before you on this issue. I am happy to answer any questions you may have or provide additional data as you request.