



## KANSAS BOARD OF REGENTS

### Senate Committee on Education Testimony in Support of SB 64

January 28<sup>th</sup>, 2021

**Crystal Puderbaugh**  
**Director for Academic Affairs, Kansas Board of Regents**

Greetings Chair Baumgardner and Members of the Committee. Thank you for the opportunity to submit testimony in support of SB 64.

SB 64 would amend several provisions of the Private and Out-of-State Postsecondary Educational Institution Act, K.S.A. 74-32,162 *et seq.* These amendments would clarify the Board of Regents's authority to regulate private and out-of-state postsecondary institutions operating in Kansas, strengthen consumer protections, and increase institutional accountability.

Under current law, private and out-of-state postsecondary institutions that are subject to the Act may not operate in Kansas unless they obtain a Board-issued certificate of approval. Before issuing a certificate, the Board must ensure the institution meets minimum standards established by statute and regulation. For example, these minimum standards require that the institution's courses and curriculum reasonably ensure achievement of its stated purpose, that the institution provide adequate facilities and instructional materials, and that it is financially capable of fulfilling its commitments to students.

While specific sections of the Act have been amended over the years, the most recent comprehensive legislative review was conducted in 2010. Since that time there have been significant changes within the industry such as the proliferation of online education and increased volatility in the ownership structure and financial health of these institutions, which has led to a nationwide increase in the number of postsecondary institutions that close. As the Board has implemented the Act, it has become apparent that statutory amendments are necessary to keep pace with these changes and provide the Board with enhanced enforcement mechanisms with which to facilitate compliance, and address violations of, the Act.

The proposed amendments would:

★ LEADING HIGHER EDUCATION ★

- Update definitions to clarify the Board’s subject matter jurisdiction, including updating the definitions of distance education, ownership, and physical presence;
- clarify the types of institutions exempt from the Act and add an exemption for intensive review courses (i.e. courses that are designed to prepare students for school entrance and professional licensure examinations, such as the certified public accountancy tests, and the bar examination);
- codify that an institution that is exempt from the Act because it is regulated and approved under another state law may voluntarily bring itself under the Board’s jurisdiction if Board-approval is required to participate in federal programs authorized by the Higher Education Act of 1965;
- require degree-granting institutions to make progress toward and ultimately achieve and maintain institutional accreditation status with an accrediting agency recognized by the U.S. Department of Education. This provision would not apply to institutions that received degree-granting authority prior to July 1, 2004, and maintains such authority on July1, 2021;
- allow the Board to issue a provisional certificate of approval when a degree-granting institution has not yet achieved institutional accreditation (a provisional certificate of approval would provide authorization to operate in the state but require the institution to submit a plan for achieving accreditation, provide quarterly updates to the Board, and potentially meet increased bonding requirements for the indemnification of any students for loss suffered if accreditation is not achieved);
- expand the list of minimum standards required for a certificate of approval to include prohibiting institutions awarding credentials based solely on payment of tuition or credit earned from other institutions or awarding honorary degrees if they do not award earned degrees. Additionally, institutions would be required by this bill to take appropriate measures to protect students' personally identifiable information;
- allow the Board to impose requirements on institutions that are closing, including teach-out plans, refund requirements and plans for maintenance of academic records;
- clarify that the Board can require an institution to begin closure procedures once a renewal application is deemed late;
- consistent with current law, the bill would allow the Board to condition a certificate of approval at any time the Board determines additional information is necessary. A certificate of approval that has conditions provides the institution authorization to operate, conditioned on such things as reporting or additional bonding;

- allow an institution that has had a certificate of approval revoked to reapply for a new certificate of approval twelve months after the final order of revocation if the institution has established that it has cured all deficiencies;
- allow the Board to fine institutions for violations of the Act. The amount of the fine would be based on the institution's tuition revenue, with established minimums and maximums. Any fine amount could be assessed against the institution's surety bond, and all fines assessed and collected would be remitted to the state treasurer to the credit of the State General Fund;
- expand the coverage of the institution's surety bond to include fines assessed for a violation of the act. Currently, the bond coverage is limited to reimbursement of costs associated with acquiring and maintaining student records when an institution closes;
- add to the list of violations of the Act obtaining a certificate of approval through fraud or misrepresentation and failing to submit accurate data on a timely basis. The proposed amendments would also add that a violation of the Act is grounds for revocation of the institution's certificate of approval. Currently violation of the Act is a class C misdemeanor; and
- increase the amount of the civil penalty that can be imposed by a court for violations of the Act from \$5,000 to \$20,000.

The proposed amendments are necessary to clarify and strengthen the Board's authority over private and out-of-state postsecondary educational institutions operating in Kansas. Additionally, the proposed amendments strengthen consumer protection for Kansas students and increase institutional accountability.

Again, thank you for the opportunity to provide testimony in support of this bill. I am happy to stand for questions.