

As Amended by House Committee

As Amended by Senate Committee

Session of 2010

SENATE BILL No. 485

By Legislative Educational Planning Committee

1-28

12 AN ACT concerning postsecondary education; relating to private and
13 out-of-state postsecondary educational institutions; amending K.S.A.
14 2009 Supp. 74-32,162, 74-32,163, 74-32,167, 74-32,168, 74-32,169, 74-
15 32,170, 74-32,178 and 74-32,181 and repealing the existing sections.
16

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

18 Section 1. K.S.A. 2009 Supp. 74-32,162 is hereby amended to read
19 as follows: 74-32,162. K.S.A. 2009 Supp. 74-32,163 through 74-32,183
20 *and section 9, and amendments thereto*, shall be known and may be cited
21 as the Kansas private and out-of-state postsecondary educational institu-
22 tion act.

23 Sec. 2. K.S.A. 2009 Supp. 74-32,163 is hereby amended to read as
24 follows: 74-32,163. As used in the Kansas private and out-of-state postse-
25 condary educational institution act:

26 (a) "Academic degree" means any associate, bachelor's, ~~first~~ profes-
27 sional, master's, ~~intermediate (specialist) or doctor's~~ **specialist or doc-**
28 *toral* degree.

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

31 (c) "Branch campus" means any subsidiary place of business main-
32 tained within the state of Kansas by an institution at a site which is sep-
33 arate from the site of the institution's principal place of business and at
34 which the institution offers a course or courses of instruction or study
35 identical to the course or courses of instruction or study offered by the
36 institution at its principal place of business.

37 (d) "Commission" means the advisory commission on private and
38 out-of-state postsecondary educational institutions established pursuant
39 to ~~this act~~ *K.S.A. 2009 Supp. 74-32,166, and amendments thereto*.

40 (e) "Distance education" means any course delivered primarily by use
41 of correspondence study, audio, video or computer technologies.

42 (f) "Out-of-state postsecondary educational institution" means a pos-
43 tsecondary educational institution chartered, incorporated or otherwise

1 organized under the laws of any jurisdiction other than the state of Kansas.

2 (g) “Institution” means an out-of-state or private postsecondary ed-
3 ucational institution.

4 (h) “Institution employee” means any person, other than an owner,
5 who directly or indirectly receives compensation from an institution for
6 services rendered.

7 (i) “Owner of an institution” means:

8 (1) In the case of an institution owned by an individual, that
9 individual;

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

12 (3) in the case of an institution owned by a corporation, the corpo-
13 ration, its directors, officers and each shareholder owning shares of issued
14 and outstanding stock aggregating at least 10% of the total of the issued
15 and outstanding shares; and

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

18 (j) “Person” means an individual, firm, partnership, association or
19 corporation.

20 (k) “Physical presence” means:

21 (1) The employment in Kansas of a Kansas resident for the purpose
22 of administering, coordinating, teaching, training, tutoring, counseling,
23 advising or any other activity on behalf of the institution, ~~or;~~ *or*

24 (2) The delivery of, or the intent to deliver, instruction in Kansas with
25 the assistance from any entity within the state in delivering the instruction
26 including, but not limited to, a cable television company or a television
27 broadcast station that carries instruction sponsored by the institution.

28 (l) “Private postsecondary educational institution” means an entity
29 which:

30 (1) Is a business enterprise, whether operated on a profit or not-for-
31 profit basis, which has a physical presence within the state of Kansas or
32 which solicits business within the state of Kansas;

33 (2) offers a course or courses of instruction or study through class-
34 room contact or by distance education, or both, for the purpose of training
35 or preparing persons for a field of endeavor in a business, trade, technical
36 or industrial occupation or which offers a course or courses leading to an
37 academic degree; and

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

39 (m) “Representative” means any person employed by an institution
40 to act as an agent, solicitor or broker to procure students or enrollees for
41 the institution ~~by solicitation within this state at any place other than the~~
42 ~~office or a place of business of the institution.~~

43 (n) “State board” means the ~~Kansas~~ *Kansas state* board of regents or the

1 board's designee.

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

5 (p) "University" means a postsecondary educational institution au-
6 thorized to offer ~~bachelor degrees together with graduate or first profes-~~
7 ~~sional degrees~~ *any degree including a bachelor, graduate or professional*
8 *degree.*

9 (q) "State educational institution" means any state educational insti-
10 tution as defined by K.S.A. 76-711, and amendments thereto.

11 ~~(r) "This act" means the Kansas private and out-of-state postsec-~~
12 ~~ondary educational institution act.~~

13 Sec. 3. K.S.A. 2009 Supp. 74-32,167 is hereby amended to read as
14 follows: 74-32,167. (a) No institution may operate within this state without
15 obtaining a certificate of approval from the state board as provided in this
16 act. No institution shall confer or award any degree, *certificate or diploma*,
17 whether academic or honorary, unless such institution has been approved
18 for such purpose by the state board ~~of regents~~.

19 (b) Any contract entered into by or on behalf of any owner, employee
20 or representative of an institution which is subject to the provisions of
21 this act, but which has not obtained a certificate of approval, shall be
22 unenforceable in any action.

23 Sec. 4. K.S.A. 2009 Supp. 74-32,168 is hereby amended to read as
24 follows: 74-32,168. (a) Each institution shall apply to the state board for
25 a certificate of approval. ~~An institution shall not be required to obtain a~~
26 ~~separate certificate of approval for maintenance of any branch institution.~~
27 *An institution which opens or maintains a branch **institution campus***
28 *shall notify the state board that it has opened or is maintaining a branch*
29 ***institution campus**. Such branch **institution campus** shall be subject to*
30 *review by the state board to determine whether it complies with the pro-*
31 *visions of this act and the standards of the state board established pur-*
32 *suant thereto.*

33 (b) An application for a certificate of approval shall be made on a
34 form prepared and furnished by the state board and shall contain such
35 information as may be required by the state board.

36 (c) The state board may issue a certificate of approval upon deter-
37 mination that an institution meets the standards established by the state
38 board. The state board may issue a certificate of approval to any institution
39 accredited by a regional or national accrediting agency recognized by the
40 United States department of education without further evidence.

41 Sec. 5. K.S.A. 2009 Supp. 74-32,169 is hereby amended to read as
42 follows: 74-32,169. The state board shall issue a certificate of approval to
43 an institution when the state board is satisfied that the institution meets

1 minimum standards established by the state board by adoption of rules
2 and regulations to insure that:

3 (a) Courses, curriculum and instruction are of such quality, content
4 and length as may reasonably and adequately ensure achievement of the
5 stated objective for which the courses, curriculum or instruction are
6 offered;

7 (b) institutions have adequate space, equipment, instructional mate-
8 rial and personnel to provide education and training of good quality;

9 (c) educational and experience qualifications of directors, administra-
10 tors and instructors are such as may reasonably insure that students will
11 receive instruction consistent with the objectives of their program of
12 study;

13 (d) institutions maintain written records of the previous education
14 and training of students and applicant students, and that training periods
15 are shortened when warranted by such previous education and training
16 or by skill or achievement tests;

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

21 (f) upon completion of training or instruction, students are given cer-
22 tificates, diplomas or degrees as appropriate by the institution indicating
23 satisfactory completion of the program;

24 (g) adequate records are kept to show attendance, satisfactory aca-
25 demic progress and enforcement of satisfactory standards relating to at-
26 tendance, progress and conduct;

27 (h) institutions comply with all local, state and federal regulations;

28 (i) institutions are financially responsible and capable of fulfilling
29 commitments for instruction;

30 (j) institutions do not utilize erroneous or misleading advertising, ei-
31 ther by actual statement, omission or intimation; ~~and~~

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

39 ~~All institutions shall~~ **institutions** adopt, publish and adhere to a
40 procedure for handling student complaints. ~~The procedure shall include~~
41 ~~use of written documentation that contains the signature of the appro-~~
42 ~~appropriate institution officials and the student as well as the date that each~~
43 ~~step of the complaint process was completed.~~ Institutions shall post infor-

1 *mation so that students will be aware of the complaint process available*
2 *to them. The information shall be posted in locations that are used or seen*
3 *by all students on a regular basis such as the institution's web site, en-*
4 *rollment agreement, catalogue or other media.*

5 Sec. 6. K.S.A. 2009 Supp. 74-32,170 is hereby amended to read as
6 follows: 74-32,170. (a) After review of an application for a certificate of
7 approval and if the state board determines that the institution meets the
8 requirements of this act *and the standards established by the state board,*
9 the state board shall issue a certificate of approval to the institution. Cer-
10 tificates of approval shall be in a form specified by the state board. Cer-
11 tificates of approval shall state:

12 (1) The date of issuance and term of approval;
13 (2) the correct name and address of the institution;
14 (3) the signature of the chief executive officer of the ~~Kansas board of~~
15 ~~regents~~ *state board* or a person designated by the state board to admin-
16 ister the provisions of this act; and

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

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

19 (c) Each certificate of approval shall be issued to the owner of an
20 institution and shall not be transferable. If a change in ownership of an
21 institution occurs, the new owner shall apply within ~~30~~ 60 days prior to
22 the change in ownership for a new certificate of approval. The state board
23 may waive the ~~thirty-day~~ *sixty-day* requirement upon determination that
24 an emergency exists and that the waiver and change in ownership would
25 be in the best interests of students currently enrolled in the institution.
26 Whenever a change in ownership occurs as a result of death, court order
27 or operation of law, the new owner shall apply immediately for a new
28 certificate of approval.

29 (d) At least ~~60~~ 120 days prior to expiration of a certificate of approval,
30 the state board shall forward to the institution a renewal application form.
31 *Any institution desiring to renew its certificate of approval, shall complete*
32 *and submit the application for renewal to the state board at least 60 days*
33 *prior to the expiration of the institution's certificate of approval.*

34 ~~(e) Any institution which is not yet in operation when its application~~
35 ~~for a certificate of approval is filed shall not accept payments for tuition,~~
36 ~~fees or other enrollment charges until receipt of the certificate of ap-~~
37 ~~proval.~~

38 (e) *Unless exempt from the provisions of this act pursuant to K.S.A.*
39 *2009 Supp. 74-32,164, and amendments thereto, an institution shall not*
40 *accept payments for tuition, fees or other enrollment charges until the*
41 *institution receives a certificate of approval from the state board.*

42 (f) Any institution which does not plan to renew a certificate of ap-
43 proval shall notify the state board of its intent not to renew at least 60

1 days prior to the expiration date of the certificate of approval.
 2 Sec. 7. K.S.A. 2009 Supp. 74-32,178 is hereby amended to read as
 3 follows: 74-32,178. Upon application of the attorney general or a county
 4 or district attorney, a district court shall have jurisdiction to enjoin any
 5 violation of this act and to enjoin persons from engaging in business in
 6 this state. In any action brought to enforce the provisions of this act, if
 7 the court finds that a person willfully used any deceptive or misleading
 8 act or practice *or operates an institution without first obtaining and main-*
 9 *taining a certificate of approval*, the attorney general or a county or dis-
 10 trict attorney, upon petition to the court, may recover on behalf of the
 11 state, in addition to the criminal penalties provided in this act, a civil
 12 penalty not exceeding ~~\$1,000~~ \$5,000 for each violation. For purposes of
 13 this section, ~~a willful~~ *an intentional* violation occurs when the person
 14 committing the violation knew or should have known that the conduct of
 15 the person consisted of acts or practices which were deceptive or mis-
 16 leading *including the operation of an institution without first obtaining a*
 17 *certificate of approval from the state board. Any violation of this act or*
 18 *any rule or regulation adopted pursuant thereto is a deceptive act or*
 19 *practice under the Kansas consumer protection act. Any remedy provided*
 20 *by this act shall be in addition to any other remedy provided by the Kansas*
 21 *consumer protection act.*

22 Sec. 8. K.S.A. 2009 Supp. 74-32,181 is hereby amended to read as
 23 follows: 74-32,181. ~~(a) The state board shall fix, charge and collect fees~~
 24 ~~for certificates of approval, registration of representatives and providing~~
 25 ~~transcripts to students who attended an institution that has ceased op-~~
 26 ~~eration by adopting rules and regulations for such purposes, subject to~~
 27 ~~the following limitations:~~

28 ~~—(1) For institutions domiciled or having their principal place of busi-~~
 29 ~~ness within the state of Kansas:~~

30	Initial issuance of certificate of approval nondegree granting — not more	
31	than	\$1,700
32	Initial issuance of certificate of approval degree granting — not more	
33	than	\$2,000
34	Renewal of certificate of approval nondegree granting — not more	
35	than	\$1,200
36	Renewal of certificate of approval degree granting — not more than	\$1,600
37	Initial registration of representative — not more than	\$150
38	Annual renewal of registration of representative — not more than	\$100

39 ~~—(2) For institutions domiciled or having their principal place of busi-~~
 40 ~~ness outside the state of Kansas:~~

41	Initial issuance of certificate of approval nondegree granting — not more	
42	than	\$3,400

43

1	Initial issuance of certificate of approval degree granting — not more	
2	than	\$3,600
3	Renewal of certificate of approval nondegree granting — not more	
4	than	\$2,400
5	Renewal of certificate of approval degree granting — not more than	\$2,600
6	Initial registration of representative — not more than	\$300
7	Annual renewal of registration of representative — not more than	\$200
8	Student transcript from institution that has ceased operation — not more	
9	than	\$10
10	<i>(a) The following fees shall be fixed by the state board by rule and regu-</i>	
11	<i>lation. The state board may establish such fees in ranges with minimum</i>	
12	<i>and maximum levels that may be based upon a percentage of gross tuition</i>	
13	<i>or any other criteria deemed appropriate. Fee structures established by</i>	
14	<i>the state board may differ based on category of fee, type of institution or</i>	
15	<i>other distinguishing factors. The state board shall fix fees in accordance</i>	
16	<i>with this section in such reasonable sums as may be necessary for such</i>	
17	<i>purposes.</i>	
18	<i>(1) For institutions domiciled or having their principal place of busi-</i>	
19	<i>ness within the state of Kansas:</i>	
20	<i>Initial application fees:</i>	
21	<i>Non-degree granting institution — not more than</i>	\$3,000
22	<i>Degree granting institution — not more than</i>	\$6,000
23	<i>Initial evaluation fees (in addition to initial application fees):</i>	
24	<i>Non-degree level — not more than</i>	\$2,000
25	<i>Associate degree level — not more than</i>	\$3,000
26	<i>Baccalaureate degree level — not more than</i>	\$6,000
27	<i>Master's degree level — not more than</i>	\$8,000
28	<i>Professional, specialist and/or doctoral degree level — not more than ...</i>	\$10,000
29	<i>Renewal application fees:</i>	
30	<i>Non-degree granting institution — not more than</i>	\$50,000
31	<i>Degree-granting institution — not more than</i>	\$50,000
32	<i>New program submission fees, for each new program:</i>	
33	<i>Non-degree program — not more than</i>	\$2,000
34	<i>Associate degree program — not more than</i>	\$3,000
35	<i>Baccalaureate degree program — not more than</i>	\$6,000
36	<i>Master's degree program — not more than</i>	\$8,000
37	<i>Professional, specialist and/or doctoral degree program — not more</i>	
38	<i> than</i>	\$10,000
39	<i>Program modification fee, for each program, — not more than</i>	\$1,000
40	<i>Branch site fees, for each site:</i> <i>campus site fees, for each branch campus site:</i>	
41	<i>Initial non-degree granting institution — not more than</i>	\$3,000
42	<i>Initial degree granting institution — not more than</i>	\$6,000
43	<i>Renewal branch site fees, for each site:</i> <i>campus site fees, for each branch campus site:</i>	

1	Non-degree granting institution — not more than	\$50,000
2	Degree-granting institution — not more than	\$50,000
3	On-site branch campus review fee, for each site — not more than	\$1,000
4	Representative fees:	
5	Initial registration — not more than	\$1,500
6	Renewal of registration — not more than	\$1,000
7	Late submission of renewal of application fee — not more than	\$1,000
8	Student transcript copy fee — not more than	\$50
9	Returned check fee — not more than	\$300
10	Changes in institution profile fees:	
11	Change of institution name — not more than	\$800
12	Change of institution location — not more than	\$800
13	Change of ownership only — not more than	\$800
14	(2) For institutions domiciled or having their principal place of business outside the state of Kansas:	
15	Initial application fees:	
16	Non-degree granting institution — not more than	\$6,000
17	Degree granting institution — not more than	\$10,000
18	Initial evaluation fees (in addition to initial application fees):	
19	Non-degree level — not more than	\$4,000
20	Associate degree level — not more than	\$6,000
21	Baccalaureate degree level — not more than	\$8,000
22	Master's degree level — not more than	\$10,000
23	Professional, specialist and/or doctoral degree level — not more than	\$12,000
24	Renewal application fees:	
25	Non-degree granting institution — not more than	\$50,000
26	Degree-granting institution — not more than	\$50,000
27	New program submission fees, for each new program:	
28	Non-degree granting program — not more than	\$4,000
29	Associate degree program — not more than	\$6,000
30	Baccalaureate degree program — not more than	\$8,000
31	Master's degree program — not more than	\$10,000
32	Professional, specialist and/or doctoral degree program — not more than	\$12,000
33	Program modification fee, for each program — not more than	\$2,000
34	Branch site fees, for each site: campus site fees, for each branch campus site:	
35	Initial non-degree granting institution — not more than	\$6,000
36	Initial degree granting institution — not more than	\$10,000
37	Renewal branch site fees, for each site: campus site fees, for each branch campus site:	
38	Non-degree granting institution — not more than	\$50,000
39	Degree-granting institution — not more than	\$50,000
40	On-site branch campus review fee, for each site — not more than	\$2,000
41	Representative fees:	
42		
43		

1	<i>Initial registration — not more than</i>	\$2,500
2	<i>Renewal of registration — not more than</i>	\$3,000
3	<i>Late submission of renewal of application fee — not more than</i>	\$3,000
4	<i>Student transcript copy fee — not more than</i>	\$50
5	<i>Returned check fee — not more than</i>	\$300
6	<i>Changes in institution profile fees:</i>	
7	<i>Change of institution name — not more than</i>	\$1,000
8	<i>Change of institution location — not more than</i>	\$1,000
9	<i>Change of ownership only — not more than</i>	\$1,000
10	<i>(b) Fees shall not be refundable.</i>	
11	<i>(c) If there is a change in the ownership of an institution and, if at</i>	
12	<i>the same time, there also are changes in the institution’s programs of</i>	
13	<i>instruction, location, entrance requirements or other changes, the insti-</i>	
14	<i>tution shall be required to submit an application for an initial certificate</i>	
15	<i>of approval and shall pay all applicable fees associated with an initial</i>	
16	<i>application.</i>	
17	<i>(d) In addition to any site evaluation fee imposed pursuant to sub-</i>	
18	<i>section (a), an applicant for an initial certificate of approval or renewal</i>	
19	<i>of a certificate of approval shall be responsible for any costs incurred by</i>	
20	<i>the state board in the process issuing the initial certificate or renewal</i>	
21	<i>thereof including, but not limited to, administrative costs, travel, meals,</i>	
22	<i>lodging, subject matter expert fees and other associated costs.</i>	
23	<i>(e)</i> (d) <i>An application for renewal shall be deemed late if the applicant</i>	
24	<i>fails to submit a completed application for renewal, or documentation</i>	
25	<i>requested by the state board to complete the renewal process, before the</i>	
26	<i>expiration date of the current certificate of approval.</i>	
27	<i>(b)</i> <i>(f)</i> (e) <i>The state board shall determine on or before June 1 of</i>	
28	<i>each year the amount of revenue which will be required to properly carry</i>	
29	<i>out and enforce the provisions of the Kansas private and out-of-state</i>	
30	<i>postsecondary educational institution act for the next ensuing fiscal year</i>	
31	<i>and shall fix the fees authorized for such year at the sum deemed nec-</i>	
32	<i>essary for such purposes within the limits of this section. Prior to adoption</i>	
33	<i>of any such fees, the state board shall afford the advisory commission an</i>	
34	<i>opportunity to make recommendations on the proposed fees.</i>	
35	<i>(e)</i> <i>(g)</i> (f) <i>Fees may be charged to conduct onsite reviews for degree</i>	
36	<i>granting and non-degree granting institutions or to review curriculum in</i>	
37	<i>content areas where the state board does not have expertise.</i>	
38	<i>New Sec. 9. Within the limits of appropriations therefore, the state</i>	
39	<i>board shall develop and maintain a statewide data collection system to</i>	
40	<i>collect and analyze private and out-of-state postsecondary educational</i>	
41	<i>information, including, but not limited to, student, course, financial aid</i>	
42	<i>and program demographics that will assist the board in improving the</i>	
43	<i>quality of private and out-of-state postsecondary education.</i>	

1 Sec. 10. K.S.A. 2009 Supp. 74-32,162, 74-32,163, 74-32,167, 74-
2 32,168, 74-32,169, 74-32,170, 74-32,178 and 74-32,181 are hereby re-
3 pealed.
4 Sec. 11. This act shall take effect and be in force from and after its
5 publication in the statute book.