



**NEUTRAL Testimony on SB 544
For the Senate Education Committee
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Chair Baumgardner and members of the committee, thank you for the opportunity to provide neutral testimony related to Senate Bill 544.

Kansas' Independent Colleges:

KICA represents all twenty-one accredited undergraduate degree-granting private non-profit colleges of Kansas. The members of KICA are all independent of KBOR. 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 general regulatory role (as it does for any for-profit college or college based outside of Kansas that wishes to operate here) regarding the KICA institutions, however we do seek to work in coordination with the public colleges and universities on issues that affect Kansas.

Why Neutral?

KICA and its colleges are strongly supportive of increasing student aid and statewide efforts to address college affordability, especially when those efforts are inclusive of the rights of each student to choose public or private colleges in Kansas. SB 544 does so, as shown in Section 1(b)(4) where accredited independent colleges are listed as eligible institutions for the new "Academic Excellence" scholarship. We are grateful that this is the case.

That said, KICA and its institutions are concerned about two aspects of the bill as introduced.

First, the existing Ethnic Minority Scholarship may not need to be replaced. The U.S. Supreme Court's majority opinion in *Students for Fair Admissions v. Harvard* explicitly dealt with race-based admissions policies and not financial aid programs. However, a plain reading of the opinion suggests that future objections to race-based (or national-origin-based) scholarships would likely be addressed similarly as in violation of the Civil Rights Act of 1964's Title VI provisions against educational "programs or activities" that are based on race, color, or national origin.

However, to our knowledge this extension of the *SFFA v. Harvard* case has not been tested. Thus, replacing the Kansas Ethnic Minority Scholarship immediately may be premature.

Second, and perhaps more importantly, we have concerns about creating a new scholarship that replicates so much of the programs that already exist in Kansas law. In particular, the Kansas State Scholars program is an "academic merit" scholarship with a financial need component and already exists. That program awards scholarships to academically successful students at Kansas high schools who complete a "Scholars Curriculum" and have an average ACT of 28 and an average GPA of nearly 4.0.

Furthermore, the current “Christmas Tree” list of KBOR-administered financial aid programs has many scholarships that are often oversubscribed and could use additional funding. Thus, creating a new scholarship on the fly to add to this already somewhat complicated and extensive list of other aid programs is counterproductive.

Lastly, the scholarship envisioned by SB 544 does not directly serve those students previously helped by the Ethnic Minority Scholarship. *SFAA v. Harvard* said that race and national origin could not be the qualifying criteria for admissions (and possibly, someday, financial aid). It didn’t say that states and institutions were prohibited from designing programs that serve students who most need a helping hand, even if those students come from minority backgrounds as a consequence of targeting socio-economic conditions.

If the Legislature and KBOR wish to replace the Ethnic Minority Scholarship, we believe it best to craft a scholarship that targets students from the highest poverty districts in the state, or from districts with high proportions of students who are traditionally unrepresented in higher education – which encompasses not just race and national origin concerns but also students from poorer households, students from rural communities, foster children, and more.

Therefore, while we do not outright oppose SB 544 – because KICA believes it is in the state’s best interest to improve college affordability – we cannot support SB544 because it is an inefficient use of resources. There are likely better approaches than what SB 544 suggests, and more time needs to be taken to explore those options.

Conclusion

Thank you for the opportunity to share our thoughts on SB 544. I am happy to answer any questions you may have or provide additional data as you request.