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KANSAS BOARD OF REGENTS

House Education Budget Committee
SB 261 – Private and Post-Secondary Education Fees Sunset
Jacqueline Johnson
Director of Private Postsecondary Education
March 5, 2012

Good afternoon Chairman Gordon and members of the House Education Budget Committee, I am Jacqueline Johnson, the director of private postsecondary education at the Kansas Board of Regents (Board). The Kansas Board of Regents is before you requesting the removal of the sunset clause in K.S.A. 74-32,181(g), which was added to the fee statute in 2011.

Pursuant to K.S.A. 74-32,162 *et seq.*, the Kansas Board of Regents (Board) has been authorized and is required to regulate the private and out-of-state postsecondary educational institutions operating in Kansas. Such regulation helps to protect consumers and insure that the private or out-of-state schools operating in Kansas meet the quality and consumer protection standards established by law. These standards include such things as insuring that a school is adequately financed, teachers are qualified, course-work is appropriate for the field, etc. In order to fund this regulatory activity, fees are charged to those institutions wishing to operate in Kansas. The maximum fees the Board is authorized to charge the regulated schools are contained in K.S.A. 2011 Supp. 74-32,181.

The fees currently authorized in K.S.A. 2011 Supp. 74-32,181 are paid by the private and out-of-state postsecondary educational institutions operating (or wishing to operate) in Kansas. These fees have been paid by this sector for the last two years. The majority of the regulated sector supports these fees, in part because the institutions recognize that state oversight helps to insure the quality of education being delivered to Kansans by such institutions; the fees charged provide sufficient funding of the Board's regulatory functions designed to help guard against the harm that might otherwise be done by "diploma mills" and the other types of problems that can develop when there is insufficient oversight. This bill does not raise or change any of these fees but merely allows the Board to continue to charge fees sufficient enough to cover our costs. If the 2012 Legislature does not eliminate the sunset clause set forth in K.S.A. 2011 Supp. 74-32,181(g), the result will be the elimination of the Board's authority to charge any fees to this sector as of July 2012. Without adequate fees paid by the schools being regulated, the Board would either need to seek state funding at the same levels, thus requiring Kansas tax payers to pay for state regulatory work done in connection with these private and out-of-state entities, or not be able to adequately regulate the private and out-of-state postsecondary educational institutions operating in Kansas. The Board believes the best way to continue to provide this worthwhile oversight is through these fees, which are paid by the regulated community, therefore, we are asking for the elimination of the sunset.

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In 1999, the Board became responsible for regulating the type of schools previously referred to as "proprietary." In 2004, the Legislature adopted K.S.A. 74-32,162 *et seq.*, which updated and clarified the scope and degree of regulatory oversight involved. In 2009, working with the assistance of a private CPA who did a business analysis, the Board determined that the fees being paid by private and out-of-state schools operating in Kansas did not support the regulatory work required of the Board office. A review of the fees charged by other states regulating this sector was done and a fee schedule was created that more correctly reflected the amount and types of work that needed to be done in order to adequately carry out the functions required by K.S.A. 74-32,162 *et seq.*

Thus, in 2010 the Board requested and the Kansas Legislature approved amendments to portions of the Kansas Private and Out-of-State Postsecondary Act (K.S.A. 74-32,162 *et seq.*). These changes resulted in a new statute (K.S.A. 74-32,181a), which contained higher and different types of fees to be paid by those private and out-of-state schools wishing to operate in Kansas. However, this new fee statute contained a sunset provision. When the Board returned to the Legislature in 2011 to ask that minor changes be made to the fee statute (which were ultimately enacted), the Legislature moved the new fee structure to the "old" fee statute, K.S.A. 74-32,181. However, it also included another sunset clause. It is this sunset clause, which would end the Board's authority to collect any fees effective July 2012, that the Board now asks you to remove from the statute.

Regular business analysis of the unit performing these functions assists the Board in setting the fees (through regulations) at levels that are fair and that fund the work authorized and required by K.S.A. 74-32,162 *et seq.* Each institution, and each program, must be reviewed for compliance with state law, on a yearly basis.

One hundred fifty-five private and out-of-state postsecondary education institutions have a current certificate of approval allowing them to operate in Kansas, and those schools have a combined total of 3119 programs being offered in Kansas. This reflects a 44.9% increase in such regulated schools and programs over the last five years. This does not take into account the work done with regard to schools that have applied but were not issued a certificate of approval.

I respectfully ask that you pass out SB 261 favorably.

Thank you for the opportunity to visit about this program and SB 261. I am happy to stand for any questions.



UNIVERSITY OF PHOENIX
1000 N. CENTRAL EXPRESSWAY
PHOENIX, ARIZONA 85004

January 20, 2012

Jacqueline G. Johnson
Director of Private Postsecondary Education
Kansas Board of Regents
1000 SW Jackson St., Suite 520
Topeka, Kansas 66612-1368

Dear Ms. Johnson:

I am providing this letter on behalf of University of Phoenix, in support of continued adequate funding for the Board of Regents Private Postsecondary Education Department. We support the removal of the current Sunset Clause in the fee structure statute.

We recognize that sufficient funding is necessary for the Board staff to carry out its duties, including timely and substantive reviews of institutions and their programs, and to ultimately protect Kansas students and consumers.

The University understands that the Board requests and considers input from institutions within the Private Postsecondary sector when making adjustments to fees by regulation, within the parameters set by the Legislature. Therefore we are supportive of the removal of the sunset provision such that the Board's Private Postsecondary Education Department can continue to be adequately funded and carry out its important regulatory duties.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerrad Tausz", with a long horizontal line extending to the right.

Jerrad Tausz
EVP, Chief Student and Operating Officer



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Rio Rancho

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(Rapid City)
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(Rapid City)
Rapid City
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TEXAS

Allen
Austin

January 19, 2012

House Committee on Education
Kansas State Capital
Room 152 S
Topeka, KS 66612

Re: Senate Bill 261, 1st Hearing, January, 2012

Dear Sirs,

I write this letter in support of the removal of the "Sunset Clause" in the K.S.A 74-32 statute that was added to the fee structure last year. It is important to know that these fees are responsible for paying board functions that are required by law. In addition, these fees are necessary if the Board is expected to convey regulatory functions to the constituents. The fees are consistent and reasonable with other states fees in this industry.

With that said, these established fees are used to help protect Kansas consumers by creating standards for the private postsecondary sector. We want to ensure that "diploma mills" and other problematic issues are handled by an appropriate staff. Removal of the Sunset clause will prevent these issues from arising. Without sufficient funding, the Board staff would not be equipped to handle unauthorized activity in the state of Kansas.

This Board is responsible for overseeing the quality and functionality that guide post-secondary education in the state of Kansas and a qualified staff is needed to ensure these standards are met. It is necessary to remove the "Sunset Clause" from the statute to accomplish these goals.

Respectfully,

Tunya Carr
National American University

401 N.W. Murray Road • Lee's Summit, MO 64081
(816) 600-3900 • (816) 600-3905 FAX • www.national.edu



Memo To: Senate Education Committee
From: Sherry C. Diel, Executive Director
Date: January 23, 2012
RE: SB 261—Proponent—Private and out of state postsecondary educational institutions act; establishing fees by regulation and removal of expiration date

Chairperson Schodorf and members of the Committee, the Kansas Real Estate Commission (Commission) supports the Kansas Board of Regent's (KBOR) ability to set reasonable fees by regulation at a lower rate than the statutory cap based upon the size of the school's enrollment.

The Kansas Board of Regents approves certificates for private and out of state postsecondary educational institutions that provide pre-license and continuing education courses required by the Commission's statutes and regulations for real estate salespersons and brokers. The Commission approves the real estate curriculum and the instructors for the courses after the school is approved by the KBOR. During the 2010 Legislative Session, legislation was passed that increased the fees charged by KBOR to approve schools' requests for original and renewal certifications as private and out of state postsecondary institutions and established a new fee for branch offices because the legislation did not allow the KBOR to set a lower fee by regulation. All fees were established at the new higher statutory cap.

After the 2010 legislation became effective, the Commission received several complaints from schools that offered real estate curriculum about the high cost to renew their certification as private or out of state postsecondary educational institutions. Many of our schools are small 1-3 person shops. A long-time school closed because it was no longer cost effective to maintain its status as a private postsecondary school.

The Commission supports a statute whereby the KBOR can set fees by regulation for approval as private and out of state postsecondary institutions at reasonable rates taking into consideration the size of enrollment for small schools that provide curriculum for professional licensing agencies.

If the expiration date is removed, statutory rates caps will remain in place and KBOR's regulations properly address small schools' low enrollments. The Commission has not received complaints from our providers about fees once KBOR was given the opportunity to establish lower fees for small schools by regulation during the 2011 Session.

Thank you for your consideration.



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January 20, 2012

Jacqueline Johnson
Director of Private Postsecondary and Out-of-State Education
Kansas Board of Regents
1000 SW Jackson, Suite 520
Topeka, KS 66612-1368

Dear Ms. Johnson:

I am writing to express my support for Senate Bill 261. As introduced, this bill will remove the sunset clause and allow the Kansas Board of Regents the authority to maintain the current fee structure.

The fees collected by the Board of Regents are imperative to the proper functioning of the board and the related oversight provided to our sector. It is important to note that the Kansas state law prescribes the regulatory functions of the board with regards to private postsecondary institutions. The fees pay for these Board functions. This change to the current code will ensure that the Board is able to collect reasonable fees to continue to fulfill its regulatory obligations.

As many states struggle to provide proper oversight, the Kansas Board of Regents, through the Office of Private Postsecondary and Out-of-State Education, has been able to effectively monitor private sector institutions, thereby ensuring the quality of education offered. Without sufficient funding, the Board staff will not be able to efficiently and effectively carry out the legislatively created duties or provide timely institutional or program reviews.

Please let me know if I can offer further assistance in support of this legislation. I can be reached at (785) 823-4601. Thank you for your consideration.

Sincerely,

Judy Holmes, Ed.D
Institutional President
Brown Mackie College - Salina, Kansas City & Oklahoma City