

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2515**

As Recommended by Senate Committee on
Education

Brief*

Senate Sub. for HB 2515 would create the Kansas Reinvest in Postsecondary Education Act (RISE Act), amend the Kansas Private and Out-of-State Postsecondary Education Institution Act (KPOPEIA), and clarify the authority of healing arts school clinics to provide healing arts services.

RISE Act

The bill would establish the Kansas RISE Scholarship Program (Program), which would be administered by the Kansas Board of Regents (KBOR). The Program would, subject to appropriations, provide a scholarship to eligible students for up to two years to attend a public or private eligible postsecondary educational institution in an associate degree program, career and technical education program, or baccalaureate degree completion program.

Definitions

The bill would define several terms used in the RISE Act, including these:

- “Baccalaureate degree completion program” would mean the third and fourth years, or up to the last 72 credit hours, of a baccalaureate degree program

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

approved by KBOR where a student holding an associate degree or completing half of a baccalaureate program may obtain a bachelor's degree from an eligible postsecondary educational institution;

- “Eligible postsecondary educational institution” would mean any community college, technical college, public university, municipal university, or any not-for-profit private postsecondary institution that is accredited and in good standing with a nationally recognized accrediting agency for higher education, has a physical presence in Kansas, and offers a baccalaureate, an associate degree, or industry-recognized certificate in a technical profession;
- “Eligible postsecondary education program” would mean an associate degree program, a career and technical education program, or a baccalaureate degree completion program; and
- “Gift aid” would mean financial aid received from a federal Pell grant and any other scholarship or financial assistance rewards that do not require repayment.

Administration of the Program

The bill would establish the Program and require KBOR to administer the Program. To administer the Program, KBOR would be required to take these actions:

- Publicize Kansas RISE scholarships, including the list of eligible postsecondary education programs and the application process;
- Review and approve or deny applications for a Kansas RISE scholarship;

- Request any information from an eligible institution KBOR deems necessary for the administration of the RISE Act;
- Designate eligible postsecondary programs that correspond to job fields and pathways identified through collaboration with the Kansas Department of Commerce and Kansas businesses and industries;
- Establish requirements for mentoring and guidance sessions for students participating in the Program; and
- Annually evaluate the Program and prepare and submit annual reports.

The bill would also require the KBOR to adopt rules and regulations on or before January 1, 2021, for the implementation of the RISE Act. The topics of such rules and regulations would include, but not be limited to, deadlines for applications to be submitted, appeal procedures for denial or revocation of a scholarship, procedures for requesting and approving medical and personal absences from an eligible postsecondary education program, the requirements that must be incorporated into each Kansas RISE scholarship agreement, and criteria for determining whether any student who received a Kansas RISE scholarship fulfilled the requirements of the scholarship agreement.

Scholarship Eligibility Requirements

The bill would establish eligibility requirements for students to receive a Kansas RISE scholarship. To be eligible, a student would have to meet the following requirements:

- Be a Kansas resident;
- Be or have any of the following:

- Enrolled in grade 12 in any public or private high school in Kansas;
 - Graduated from any public or private high school in Kansas within the previous five years;
 - Been in foster care at any time while enrolled in any of the grades 6 through 12;
 - Obtained a general educational development (GED) certificate or high school equivalency certificate; or
 - Be a dependent child of a military servicemember currently assigned in another state and have met any of the above criteria;
- Complete the scholarship application;
 - Complete the Free Application for Federal Student Aid for the academic year for which the student is seeking a scholarship;
 - Participate in mentoring and guidance sessions required by KBOR; and
 - Enroll in an associate degree program, career and technical education program, or baccalaureate degree completion program in the fall semester immediately following submission of the student's application.

Scholarship Amount

The bill would determine the scholarship amounts based on whether the student was enrolled at a two-year postsecondary institution or a four-year postsecondary institution.

For a student enrolled in a two-year community college or technical college, the amount of the scholarship, subject to appropriations, for each semester would be the aggregate

amount of tuition and required fees for the program minus any gift aid awarded to the student for that semester, plus a stipend to pay for all, or a portion of, the cost of books and materials.

For a student enrolled in a public or private four-year institution that offers an eligible associate degree program, career and technical education program, or baccalaureate degree completion program, the amount of the scholarship, subject to appropriations, for each semester would be the average cost of tuition, fees, and books and materials for such a program when offered at a community college or technical college. Additionally, for every \$1 of the scholarship provided, the endowment or other scholarship fund of the four-year institution would be required to provide \$1.

The statewide appropriation for scholarships would be capped at \$10 million.

Scholarship Continuation Requirements

The bill would establish requirements for a student to continue to receive a Kansas RISE scholarship. A student would be required to enter into a Kansas RISE scholarship agreement with the postsecondary institution that awarded the scholarship to such student. A student could receive the scholarship for up to 72 credit hours or two years if the student enters into such agreement requiring the student to:

- Be continuously enrolled in an eligible postsecondary education program;
- Maintain satisfactory academic progress, as specified in the bill or achieves at least a 2.0 grade point average each semester; and
- Participate in mentoring and guidance sessions required by KBOR.

The bill would allow a student who takes an approved medical or personal leave of absence from the postsecondary institution to continue to receive the RISE scholarship upon resuming courses at the postsecondary institution as long as the student continues to meet the Program requirements. The length of the leave could not exceed six months, unless allowed by the rules and regulations adopted by KBOR.

The bill would allow scholarship agreements entered into under the bill to be postponed for good cause as determined by KBOR.

Requirements after Completion of Eligible Academic Program

The bill would require students to work in Kansas for three consecutive years after completion of an associate degree program, career and technical education program, or baccalaureate degree completion program. Students would be required to reside and commence work within six months of the completion of their academic program. The bill would also require students to maintain records and make reports to KBOR as required to document satisfaction of the work requirement.

If a student does not fulfill the work requirement, the bill would require the student to repay the total amount of the scholarship funded by the State plus interest. The interest rate used would be the interest rate for loans made under the federal PLUS program at the time the student first entered into an agreement for a Kansas RISE scholarship. The bill would allow for installment payments, which would begin six months after the student fails to satisfy the work requirement. The bill would authorize KBOR to turn any repayment account over to a designated loan servicer or collection agency.

Any student who entered into a Kansas RISE scholarship agreement would be determined to have satisfied the requirements of such agreement when the student:

- Completes the requirements of the agreement;
- Fails to satisfy the requirements of the agreement after making the best possible effort to do so;
- Is unable to obtain or continue employment after making the best possible effort to do so;
- Is unable to satisfy the requirements of the agreement due to permanent physical disability;
- Dies; or
- Is unable to meet the residency requirement required by the agreement.

Required Reports

The bill would require KBOR to prepare and submit two types of reports to the Legislature and the Governor.

The bill would require a report be submitted on or before January 15, 2022, and annually thereafter. The annual report would be required to include:

- The number of students who applied for a Kansas RISE scholarship;
- The number of students who received a Kansas RISE scholarship. This number would also be disaggregated by the type of scholarship recipient, including the number of students who received a scholarship as a graduating high school senior, a person who graduated from high school within the last five years, a person who was in foster care, or a person with a GED certificate;
- The total amount of scholarship money awarded. This amount would also be disaggregated by the type of recipient;

- The number of students who completed an eligible postsecondary education program; and
- The number of students who became employed within six months of completing an eligible postsecondary education program.

The bill would require the KBOR to evaluate and make recommendations on Kansas RISE scholarship funding in a one-time report the bill would require to be submitted on or before January 15, 2022..

KPOPEIA Amendments

Certificate of Approval Application

The bill would allow an institution currently exempt from the KPOPEIA to apply to KBOR for a certificate of approval if it is required for the institution to be eligible to receive federal Title IV student financial aid. Any institution that applied for and received a certificate of approval would be subject to the jurisdiction of KBOR. The institution could return to exempt status by not renewing the certificate of approval.

The bill would require a certificate of approval be issued to the owner of an institution and such a certificate would not be transferable. If the institution has a change of ownership due to the death of the owner, a court order, or the operation of law, the new owner would be required to immediately apply for a new certificate of approval. If a change of ownership occurs for any other reason, the new owner would be required to apply for a new certificate of approval 60 days prior to the change of ownership. KBOR would be allowed to adopt rules and regulations to ensure an orderly transition to a new owner, including requirements regarding the maintenance of all student records.

The bill would require a court-appointed receiver of an institution with a certificate of approval to provide KBOR with

notice of appointment and copies of all documents required from the receiver by the court. The receiver would be required to comply with the provisions of the KPOPEIA.

The bill would allow KBOR to assess a civil fine against an institution for violations of the KPOPEIA. For the first violation, the fine would be limited to up to 1.0 percent of the institution's tuition revenue, with a minimum fine of \$125 and a maximum fine of \$15,000. For subsequent violations, the fine would be limited to up to 2.0 percent of the institution's tuition revenue, with a minimum fine of \$250 and a maximum fine of \$20,000. These fines would be subject to judicial review.

Definitions

The bill would amend the definitions of "distance education," "owner of an institution," "physical presence," and "private postsecondary educational institution." The bill would also add a definition for "provisional certificate," which would mean a certificate of approval that can be granted to a degree-granting institution that is not yet accredited but is seeking to establish a physical presence in Kansas.

Exempt Courses and Institutions

The bill would amend law exempting certain types of education and certain institutions from the provisions of the KPOPEIA. The bill would exempt education offered as a review course designed solely to prepare students for graduate or professional school entrance exams or professional licensure exams. The bill would also list the institutions exempted from the KPOPEIA:

- Baker University, Baldwin City;
- Barclay College, Haviland;
- Benedictine College, Atchison;
- Bethany College, Lindsborg;

- Bethel College, North Newton;
- Central Baptist Theological Seminary, Kansas City;
- Central Christian College of Kansas, McPherson;
- Cleveland University–Kansas City, Overland Park;
- Donnelly College, Kansas City;
- Friends University, Wichita;
- Hesston College, Hesston;
- Kansas Christian College, Overland Park;
- Kansas Wesleyan University, Salina;
- Manhattan Christian College, Manhattan;
- McPherson College, McPherson;
- MidAmerica Nazarene University, Olathe;
- Newman University, Wichita;
- Ottawa University, Ottawa;
- Southwestern College, Winfield;
- Sterling College, Sterling;
- Tabor College, Hillsboro; and
- University of Saint Mary, Leavenworth.

Rules and Regulations, Standards

The bill would require KBOR to adopt rules and regulations governing the closure of any institution subject to the provisions of the KPOPEIA. These may include notice requirements, teach-out plans, maintenance of academic records, refund requirements, and transcript requests. Additionally, the bill would require degree-granting institutions that are not yet accredited to make progress toward accreditation. Once accreditation is achieved, an institution would be required to maintain accreditation. The bill would also allow KBOR to set additional standards for institutions that receive federal Title IV student financial aid, including requiring audited financial statements.

Physical Presence of Institution in Kansas

The bill would prohibit an institution from establishing a physical presence in Kansas without obtaining a certificate of approval from KBOR.

Notification Requirement and Provisional Certificate of Approval

The bill would require any institution planning on opening a branch campus in Kansas to notify KBOR of its intent at least 60 days prior to the opening of the branch campus.

The bill would allow KBOR to issue a provisional certificate to a degree-granting institution that is not yet accredited and wishes to establish a physical presence in Kansas. The provisional certificate could be renewed annually as long as the institution continues to progress toward accreditation. The bill would require an institution with a provisional certificate to submit to KBOR a plan for achieving accreditation and quarterly updates on the institution's progress toward accreditation. The bill would also allow KBOR to adopt rules and regulations imposing additional surety bond requirements for the indemnification of any student for any loss suffered as a result of a failure to achieve full accreditation.

Certificate of Approval Minimum Standards

The bill would add the following to the list of minimum standards an institution must meet to be awarded a certificate of approval:

- An institution would not be allowed to award a certificate or degree based solely on the payment of tuition or fees, credit earned at another institution, credit for life experience, testing out, or research and writing;

- An institution would not be allowed to award an honorary degree if they do not award that same degree and would not be allowed to charge a fee for an honorary degree;
- An institution would be required to maintain adequate financial records, which would require financial aid information and loan default rates for institutions receiving federal Title IV student financial aid;
- An institution would be required to protect students' personally identifiable information and to promptly address any breach of that information; and
- An institution would be required to publish graduation rates, placement rates, and loan default rates as required by KBOR.

Certificate of Approval Renewal

The bill would state an application for the renewal of a certificate of approval would be deemed late if it is not submitted at least 60 days prior to the expiration of the institution's certificate. When an application for renewal is deemed late, KBOR may require the institution to begin the closure procedure. The bill would also require any institution that is closing, either voluntarily or involuntarily, to follow the closure requirements until notified by KBOR that all requirements are satisfied.

KBOR Refusal to Issue Certificate of Approval and Appeal Process

The bill would update and clarify language regarding refusals by KBOR to issue a certificate of approval and the process to request a hearing to contest such a refusal.

Conditional Certificate of Approval

The bill would allow KBOR to condition a certificate of approval if KBOR has reasonable cause to believe additional information is necessary, a violation of the KPOPEIA occurred, or it is in the students' best interests for the institution to continue operating while completing closure requirements. The conditions imposed by KBOR may include reporting requirements, performance standard requirements, securing new or additional bonds, limiting the period of time to operate during change or ownership, or for the purpose of teaching out students. KBOR may require an institution with a conditional certificate of approval to suspend or cease institutional activities, including enrolling students and advertising or delivering certain classes or programs. KBOR-imposed conditions would remain in effect until all the circumstances causing the conditional status are corrected and KBOR has completed all reviews related to the institution's conditional status.

Revocation of Certificate of Approval

The bill would amend language related to the revocation of certificates of approval. The bill would prohibit any institution that has had a certificate of approval revoked from applying for a new certificate for 12 months after the final order of revocation. After that 12-month period, an institution could apply for a certificate of approval only if KBOR agrees the institution has cured all deficiencies. Prior to revoking an institution's certificate of approval, KBOR would be required to give written notice to the holder of the certificate. Such written notice must include the grounds for the revocation and notification that the institution may request a hearing on the revocation of the certificate of approval. If a hearing is requested, it must be conducted within 30 days after the written notice was sent.

Requirements of Institution and Employees

The bill would require an institution, including its officers, agents, representatives, and employees, to comply with the provisions of the KPOPEIA and any rules and regulations adopted by KBOR, including, but not limited to, the protection of students' personally identifiable information.

Prohibited Actions under the KPOPEIA

The bill would prohibit the use of fraud or misrepresentation to obtain a certificate of approval. KBOR would be allowed to revoke or condition a certificate of approval for any violation of the KPOPEIA.

Civil Fines

The bill would increase from \$5,000 to \$20,000 the maximum civil penalty for intentional acts.

Statewide Data Collection

The bill would specify an institution would be in violation of the KPOPEIA for failure to submit complete and accurate data on a timely basis when requested by KBOR.

Technical Amendments

The bill would make technical amendments to the KPOPEIA.

Healing Arts School Clinics

The bill would clarify the authority of healing arts school clinics to provide healing arts services. The bill would allow schools statutorily exempted from KBOR approval requirements to be exempted from the prohibition on the

corporate practice of medicine. Current law requires that for a school clinic to be exempted from the prohibition on the corporate practice of medicine, the school must be approved by KBOR.

The bill would also allow off-site clinics owned or operated by a school in partnership with other providers to engage in the practice of healing arts.

The bill would make technical amendments to statutes related to the corporate practice of medicine.

Background

HB 2515 as introduced would have created the Kansas Promise Scholarship Act. On March 17, 2020, the Senate Committee on Education removed the contents of HB 2515 and inserted the contents of SB 277, SB 354, and SB 336 as amended by the Senate Committee. Provisions from SB 336 were further amended. The background for each of those bills is included below.

SB 277 (Healing Arts School Clinics)

The bill was introduced by the Senate Committee on Education at the request of a representative of Cleveland University–Kansas City.

In the Senate Committee hearing, proponent testimony was provided by representatives of Cleveland University–Kansas City and the Kansas Chiropractic Association. Proponents stated the bill would resolve statutory conflicts created by a 2017 amendment to the Kansas Private and Out-of-State Postsecondary Educational Institution Act that exempted Cleveland University–Kansas City from the requirement to register with KBOR. Additionally, the proponents said the creation of off-site clinics would allow student interns to provide care to a more diverse patient

population. Written-only proponent testimony was provided by a representative of the Kansas Independent College Association.

Written-only neutral testimony was provided by a representative of the Kansas State Board of Healing Arts. No opponent testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

In the House Committee hearing, proponent testimony was provided by representatives of Cleveland University–Kansas City and the Kansas Independent College Association. Proponents stated the bill was necessary to allow the clinic at Cleveland University–Kansas City to operate. Written-only proponent testimony was provided by the Kansas Chiropractic Association. No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget on SB 277, the Kansas State Board of Healing Arts indicates enactment of the bill would have no fiscal effect.

SB 336 (RISE Act)

The bill was introduced by the Senate Committee on Education at the request of Senator Holland.

In the Senate Committee hearing, proponent testimony was provided by Senator Holland and representatives of the Board, the Kansas Association of Community College Trustees, and the Kansas Technical Colleges. Proponents generally favored the bill as a means of workforce development and as a way to help individuals get family-sustaining jobs. Written-only proponent testimony was provided by representatives of Cowley College, Goodwill

Industries of Kansas, and the Kansas Independent College Association.

Neutral testimony was provided by a representative of the Kansas Department of Commerce. The representative emphasized the importance of workforce development, but stated the agency was neutral on the bill because the Legislature was considering several proposals for scholarship programs to address workforce development. Written-only neutral testimony was provided by a representative of the Department for Children and Families (DCF).

No opponent testimony was provided.

The Senate Committee amended the bill to:

- Limit participation in the Program by private postsecondary educational institutions to only not-for-profit private postsecondary institutions;
- Clarify all eligible postsecondary institutions must be accredited by a nationally recognized accrediting agency for higher education in the United States;
- Provide a definition for “baccalaureate degree completion program,” delete the definition of “bridge program,” and change all references of “bridge program” to “baccalaureate degree completion program”;
- Specify that Kansas RISE scholarships are subject to the availability of appropriations;
- Provide for a stipend to pay for all, or a portion of, the cost of books and materials. As introduced, the bill would have provided \$250 for such items;

- Clarify Kansas RISE scholarships would cover “required” fees. As introduced, the bill would have covered “mandatory” fees;
- Require students to show satisfactory academic progress to maintain eligibility for a scholarship. As introduced, the bill would have required students to maintain a 2.0 cumulative grade point average;
- Include holding a high school equivalency certificate as a way to qualify for a scholarship; and
- Add a requirement to work in Kansas for three years for students receiving a Kansas RISE scholarship.

Upon placement into Senate Sub. for HB 2515, provisions related to the RISE Act were amended to:

- Provide for scholarship agreements between postsecondary educational institutions and scholarship recipients governing terms of scholarships, including the postponement of scholarship agreements and specifying the elements of a satisfied scholarship agreement;
- Cap the statewide appropriation for scholarships at \$10 million;
- Clarify a student could receive the scholarship for up to 72 credit hours or the third and fourth years of a baccalaureate degree program;
- Include certain dependent children of military servicemembers among those eligible to receive a scholarship;
- Provide for the designation of additional eligible educational programs; and

- Add a residency requirement upon completion of eligible educational programs.

According to the fiscal note prepared by the Division of the Budget on SB 336 as introduced, the Board estimates if all students up to 24 years of age who were enrolled in technical education programs at community colleges and technical colleges during the 2018-2019 academic year were eligible for a Kansas RISE scholarship, expenditures for scholarships would increase by approximately \$29.0 million annually. This estimate includes \$24.3 million for tuition and fees and \$4.6 million for books and materials. The Board did not provide an estimate of costs for Kansas RISE scholarships for baccalaureate degree completion programs at four-year institutions and technical education programs at private institutions. The Board estimates the cost to create rules and regulations and administer the program would be \$37,419. This includes \$27,419 for a part-time position and \$10,000 for other operating costs. The DCF indicates any costs to promote the program to students in foster care would be negligible and could be absorbed within existing resources. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.

SB 354 (KPOPEIA Amendments)

The bill was introduced by the Senate Committee on Education at the request of KBOR. In the Senate Committee hearing, a representative of KBOR provided proponent testimony. The representative stated the bill would amend the KPOPEIA to align with best practices and would provide increased consumer protections and institutional accountability. Written-only proponent testimony was provided by a representative of the Kansas Independent College Association. No opponent or neutral testimony was provided.

The Senate Committee amended the bill to correct the names of several institutions specifically exempted from the

provisions of the Act, including Central Christian College of Kansas and Cleveland University–Kansas City.

In the House Committee hearing, a representative of KBOR provided proponent testimony, stating the bill would align the KPOPEIA with best practices. No neutral or opponent testimony was provided.

The House Committee recommended the bill be placed on the Consent Calendar.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Board indicates the bill could increase fines from civil penalties that are remitted to the State General Fund, but a precise estimate cannot be determined. Additionally, the Board anticipates no additional fee revenue from enactment of the bill since no new institutions would be brought under the scope of the Act by the bill. Any fiscal effect associated with enactment of the bill is not included in *The FY 2021 Governor's Budget Report*.