

SENATE BILL No. 42

AN ACT concerning teachers; relating to licensure thereof; amending K.S.A. 71-201, 72-1381, 72-1383, 72-1387, 72-1388, 72-1389, 72-1390, 72-1392, 72-1393, 72-1394, 72-1395, 72-1396, 72-1397, 72-1398, 72-4526, 72-53,103, 72-5412, 72-5445, 74-32,101, 74-32,102, 74-32,103 and 74-32,105 and K.S.A. 2004 Supp. 72-4470 and 72-4470a and repealing the existing sections.

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

New Section 1. Whenever a statute, contract or other document, uses or refers to the words or phrases “certification as a teacher,” “certified employee of a school district,” “certified personnel of a school district” or words and phrases of like effect such use or reference shall be deemed to mean “licensure as a teacher” or “licensed employee of a school” or “licensed personnel of a school district”.

Sec. 2. K.S.A. 71-201 is hereby amended to read as follows: 71-201.

(a) The board of trustees, in accordance with the provisions of law and the rules and regulations of the state board of regents, shall have custody of and be responsible for the property of the community college and shall be responsible for the operation, management and control of the college. The board of trustees shall hold at least one regular meeting each month at a time prescribed by the board. The board shall make an annual report in the manner prescribed by the state board of regents. Members of the board of trustees shall be paid subsistence allowances, mileage and other actual and necessary expenses incurred in the performance of their official duties.

(b) For effectuation of the purposes of this act, the board of trustees in addition to such other powers expressly granted to it by law and subject to the rules and regulations of the state board of regents is hereby granted the following powers:

(1) To select its own chairperson and such other officers as it may deem desirable, from among its own membership. The secretary may be chief administrative officer of the college.

(2) To sue and be sued.

(3) To determine the educational program of the college subject to prior approval thereof as provided in this act and to grant certificates of completion of courses or curriculum.

(4) To appoint and fix the compensation and term of office of a president or chief administrative officer of the college.

(5) To appoint upon nomination of the president or the chief administrative officer members of the administrative and teaching staffs, to fix and determine within state adopted standards their specifications, define their duties, and to fix their compensation and terms of employment. No community college teacher shall be required to meet ~~certification~~ *licensure* requirements greater than those required in the state educational institutions.

(6) Upon recommendation of the chief administrative officer, to appoint or employ such other officers of the college, agents and employees as may be required to carry out the provisions of law and to fix and determine within state adopted standards their qualifications, duties, compensation, terms of office or employment and all other items and conditions of employment.

(7) To enter into contracts.

(8) To accept from any government or governmental agency, or from any other public or private body, or from any other source, grants or contributions of money or property which the board may use for or in aid of any of its purposes.

(9) To acquire by gift, purchase, lease-purchase, condemnation or otherwise, and to own, lease, use and operate property, whether real, personal, or mixed, or any interest therein, which is necessary or desirable for community college purposes. Any lease-purchase agreement entered into under authority of this subsection shall be subject to the conditions set forth in K.S.A. 10-1116c, and amendments thereto. The term of any lease entered into under authority of this subsection may be for not to exceed 10 years. Such lease may provide for annual or other payment of rent or rental fees and may obligate the community college to payment of maintenance or other expenses. Any lease or lease-purchase agreement entered into under authority of this subsection shall be subject to change or termination at any time by the legislature. Any assignment of rights in any lease or lease-purchase made under this subsection shall contain a citation of this section and a recitation that the lease or lease-purchase

agreement and assignment thereof are subject to change or termination by the legislature. To the extent that the provisions of the cash-basis and budget laws conflict with this subsection in such a manner as to prevent the intention of this subsection from being made effective, the provisions of this subsection shall control. This provision is subject to the provisions of subsection (d).

(10) To enter into lease agreements as lessor of any property, whether real, personal, or mixed, which is owned or controlled by the community college. Any such agreement may specify the purposes for which the property may be used, require that the property be maintained and operated by the lessee, and may contain such restrictions or limitations on the use of the property, be entered into for such period of time, and include such other terms and conditions as the board of trustees determines to be necessary and proper. Every such agreement shall be subject to change or termination at any time by the legislature. Any assignment of rights under any such agreement shall be subject to approval by the board of trustees and shall contain a citation of this section and a recitation that the lease agreement and assignment of rights thereunder are subject to change or termination by the legislature.

(11) To determine that any property owned by the college is no longer necessary for college purposes and to dispose of the same in such manner and upon such terms and conditions as provided by law.

(12) To exercise the right of eminent domain, pursuant to chapter 26 of Kansas Statutes Annotated.

(13) To make and promulgate such rules and regulations, not inconsistent with the provisions of law or with rules and regulations of the state board of regents, that are necessary and proper for the administration and operation of the community college, and for the conduct of the business of the board of trustees.

(14) To exercise all other powers not inconsistent with the provisions of law or with the rules and regulations of the state board of regents which may be reasonably necessary or incidental to the establishment, maintenance and operation of a community college.

(15) To appoint a member to fill any vacancy on the board of trustees for the balance of the unexpired term. When a vacancy occurs, the board shall publish a notice one time in a newspaper having general circulation in the community college district stating that the vacancy has occurred and that it will be filled by appointment by the board not sooner than 15 days after such publication.

(16) To contract with one or more agencies, either public or private, whether located within or outside the community college district or whether located within or outside the state of Kansas for the conduct by any such agencies of academic or vocational education for students of the community college, and to provide for the payment to any such agencies for their contracted educational services from any funds or moneys of the community college, including funds or moneys received from student tuition and fees, funds received from the state of Kansas or the United States for academic or vocational education, or taxes collected under K.S.A. 71-204, and amendments thereto. Any contract made under this subsection with an institution of another state shall be subject to the provisions of K.S.A. 71-202, and amendments thereto.

(17) To authorize by resolution the establishment of a petty cash fund in an amount not to exceed \$1,000, and to designate in such resolution an employee to maintain such petty cash fund. The employee designated in any resolution provided for in this subsection receiving such funds shall keep a record of all receipts and expenditures from the fund, and shall from time to time, and at the end of the fiscal year, prepare a statement for the board showing all receipts, expenditures, and the balance in the petty cash fund. The board of trustees may authorize the employee designated to maintain any petty cash fund to make a claim for replenishment of the fund to its original amount in advance of approval by the board of trustees if, at any time during the period between regular monthly meetings of the board of trustees, the balance remaining in the fund is insufficient to make needed expenditures for any purpose for which the petty cash fund is maintained. No petty cash fund may be replenished more than one time during each period between regular monthly meetings of the board of trustees. If a petty cash fund is replenished prior to the end of the fiscal year in accordance with the foregoing authorization, the em-

ployee authorized to maintain the petty cash fund shall keep an accurate record of all expenditures made therefrom, and the purpose therefor, and shall submit the record to the board of trustees at the next regular monthly meeting thereof. The petty cash fund shall be replenished by payment from the appropriate funds of the community college to the petty cash fund upon proper claim. The fund shall be kept separate from all other funds and shall be used only for authorized expenditures and itemized receipts shall be taken for each expenditure. No part of such fund may be loaned or advanced against the salary of an employee. All employees entrusted with such funds under this subsection shall be bonded by the community college district.

(c) Subject to the provisions of subsection (d), the board of trustees may purchase or otherwise acquire land or land and improvements and may acquire, construct, reconstruct, repair or remodel improvements thereon or additions thereto, including furnishings, equipment, and architectural and incidental expense related thereto, and for such purposes the board of trustees is authorized to issue and sell general obligation bonds, the cumulative total not to exceed the following amounts: Where the community college district has a taxable tangible valuation of less than \$90,000,000 or is located in a county designated as urban under the provisions of K.S.A. 19-3524, and amendments thereto, not to exceed 5% of the taxable tangible property of the community college district, and where the community college district has a taxable tangible valuation of more than \$90,000,000 not to exceed 3% except as provided above for any community college district located in a county designated as urban under the provisions of K.S.A. 19-3524, and amendments thereto, of the taxable tangible property of the community college district. If any increase in the valuation of a community college district results in an outstanding bonded indebtedness in excess of that provided in this subsection, such increase shall not constitute a violation of this subsection. No such bonds shall be issued until the question of their issuance shall have been submitted to a vote of the electors of the community college district at a regular election or at a special election called for that purpose and the majority of the electors voting on the proposition in such community college district shall have voted in favor of the issuance of the bonds. Such election shall be called, noticed and held and the bonds issued, sold, delivered and retired in accordance with the provisions of the general bond law except as herein otherwise expressly provided.

(d) The board of trustees of a community college may not purchase or otherwise acquire land or land and improvements outside the community college district. Nothing in this subsection shall be construed or operate in any manner to require a board of trustees to sell, convey or otherwise dispose of land or land and improvements located outside the community college district and owned or being acquired by the community college on the effective date of this act, but no board of trustees may enter into a contract for the construction of improvements on any such land after the effective date of this act.

Sec. 3. K.S.A. 72-1381 is hereby amended to read as follows: 72-1381. The state board of education, upon being satisfied as to the general qualifications of an applicant to teach, may in its discretion issue a special ~~certificate license~~ and specify on the face of such ~~certificate license~~ the subject or subjects that the holder of the ~~certificate license~~ is authorized to teach. It shall be unlawful for the holder of a ~~certificate license~~ on the face of which is specified the subjects to teach any subjects not so specified.

Sec. 4. K.S.A. 72-1383 is hereby amended to read as follows: 72-1383. Any ~~certificate license~~ issued by the state board of education or institutions under the state board of regents may be canceled by the state board of education in the manner provided by law, on the grounds of immorality, gross neglect of duty, annulling of written contracts with boards of education without the consent of the board which is a party to the contract, or for any cause that would have justified the withholding thereof when the same was granted.

Sec. 5. K.S.A. 72-1387 is hereby amended to read as follows: 72-1387. (a) Each application to the state board of education for ~~certification, renewal of certification or duplication of certification~~ *an initial license, renewal of a license, a duplicate license or reinstatement of a license* shall

be accompanied by a fee which shall be established by the state board of education and shall be in an amount of not less than \$18 nor more than \$24 as provided by this section. Prior to July 1 of each year, the state board of education shall determine the amount of revenue which will be required to properly administer the provisions of article 13 of chapter 72 of Kansas Statutes Annotated during the ensuing fiscal year, and shall establish the ~~certification fee~~ *amounts of such fees* for such year in the amount deemed necessary for such purposes. ~~The certification fee~~ *Such fees* shall become effective on July 1 of each year. The state board of education shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~certificate fees fund, and teacher and administrator fee fund which is hereby created.~~ *Moneys in such fund* shall be used only for the payment of expenses connected with the issuance, renewal, or duplication of such ~~certifications~~ *licenses*, and for the keeping of records by the state department of education. All expenditures from the ~~certificate fees~~ *teacher and administrator fee* fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board of education or by a person or persons designated by it.

(b) *The certificate fee fund is hereby abolished. All moneys in such fund are hereby transferred and credited to the teacher and administrator fee fund.*

Sec. 6. K.S.A. 72-1388 is hereby amended to read as follows: 72-1388. (a) The state board of education, in accordance with law, is authorized to adopt rules and regulations providing for the issuance, renewal, reinstatement and registration of ~~certificates~~ *licenses* for teachers and other personnel in the state department of education and in schools and institutions under the general supervision of the state board of education.

(b) In addition to other requirements and subject to the provisions of K.S.A. 72-1396, and amendments thereto, the rules and regulations of the state board of education shall include after May 1, 1986, the requirement that applicants for initial issuance of ~~certificates~~ *licenses* to teach shall take and satisfactorily pass an examination prescribed by the state board.

(c) The privilege to teach at any level or in any field or subject, if such privilege is or has been granted when a ~~certificate~~ *license* is issued, may not be withheld during the term for which the ~~certificate~~ *license* is issued except as provided in K.S.A. 72-1383 or 72-5412, and amendments to such sections.

Sec. 7. K.S.A. 72-1389 is hereby amended to read as follows: 72-1389. ~~All teachers' certificates shall, before issuance, be signed by appropriate personnel of the state department of education designated by the state board of education and such certificates shall be registered in the state department of education. The provisions of this act shall not invalidate teachers' certificates that have been duly issued prior to the effective date of this act. Nothing in this act shall invalidate a certificate or license issued prior to July 1, 2005.~~ *Before a teacher's license is issued, it shall be signed by appropriate personnel of the state department of education designated by the state board of education and such certificates shall be registered in the state department of education.*

Sec. 8. K.S.A. 72-1390 is hereby amended to read as follows: 72-1390. It shall be unlawful for the board of education of any school district to issue an order for payment of the salary of any ~~certificated~~ *employee required by law to be licensed* who does not hold a ~~certificate~~ *license* which is valid in the state of Kansas for the particular kind of work to be performed.

Sec. 9. K.S.A. 72-1392 is hereby amended to read as follows: 72-1392. The board of education of any school district may enter into contracts with colleges and universities for the use of student teachers in the public schools. The state board of education, by rules and regulations, shall provide for the issuance of student teaching ~~certificates~~ *licenses* and may authorize persons holding such student teaching ~~certificates~~ *licenses* to assume responsibilities of teachers in schools within limitations prescribed by the state board. Student teaching ~~certificates~~ *licenses* shall be

issued without the charge of any fee or cost by the state board of education.

Sec. 10. K.S.A. 72-1393 is hereby amended to read as follows: 72-1393. The state board of education is hereby prohibited from adopting rules and regulations which require ~~certification~~ *licensure* of administrators, teachers or instructors ~~in any two-year college or in any public community junior community college~~ or which require any such administrators, teachers or instructors to meet any other conditions for qualification for employment in any such ~~two-year college or public community junior community college~~. ~~From and after the effective date of this act, any requirements in any rules and regulations adopted by the state board of education which conflict with the prohibition prescribed in this section shall be null and void.~~

Sec. 11. K.S.A. 72-1394 is hereby amended to read as follows: 72-1394. (a) The state board of education shall prescribe an examination designed to insure that ~~certification~~ *the licensure* of a person as a teacher is a reliable indicator that the person has the basic knowledge and qualifications necessary to engage in the profession of teaching in this state.

(b) In order to comply with the requirements of subsection (a), the state board of education shall select an examination which will measure the basic knowledge and qualifications of applicants for ~~certification~~ *licensure* as teachers and shall provide for administration and validation of the examination. The examination shall be administered to applicants at least two times each calendar year at various locations within the state.

(c) The state board of education shall adopt rules and regulations to guarantee the confidentiality of the examination, but shall make available to applicants information regarding examination specifications and shall prescribe the method by which persons who take the examination may obtain the results thereof.

Sec. 12. K.S.A. 72-1395 is hereby amended to read as follows: 72-1395. Any applicant who is seeking ~~certification~~ *a license* to teach in this state and who is required to take the examination required by this act may apply for and take the examination without limitation as to the frequency of applications or testing, subject to any limit imposed by the state board. The state board of education shall determine the passing score for the examination which will be required to be attained by applicants as a prerequisite for ~~certification~~ *licensure*. An applicant shall not be required to pass the examination more than once.

Sec. 13. K.S.A. 72-1396 is hereby amended to read as follows: 72-1396. (a) Any person holding a teaching ~~certificate~~ *license* valid in the state of Kansas which was issued prior to May 1, 1986, is exempt from the examination required by this act.

(b) The following persons, or any class or classes thereof, may be exempted by the state board of education from the examination required by this act:

(1) Any person holding a teaching ~~certificate~~ *license* valid in any other state if the requirements under which the ~~certificate~~ *license* was issued are comparable, in the opinion of the state board, to the requirements of this state, other than examination, for issuance of a teaching ~~certificate~~ *license*.

(2) Any person applying for a one-year, nonrenewable ~~certificate~~ *license* if the person meets all ~~certification~~ requirements for *licensure*, other than examination, for issuance of a teaching ~~certificate~~ *license*.

(3) Any person applying for ~~certification~~ *licensure* by the state board to provide services in a position for which the state board deems the examination is inappropriate or unnecessary if the person meets the ~~certification~~ *licensure* requirements which have been established by the state board as appropriate and necessary for the position.

Sec. 14. K.S.A. 72-1397 is hereby amended to read as follows: 72-1397. (a) The state board of education shall not knowingly issue a ~~certificate~~ *license* to or renew the ~~certificate~~ *license* of any person who has been convicted of any offense or attempt to commit any offense specified in subsection (c) of K.S.A. 21-4619 and amendments thereto.

(b) Except as provided in subsection (c), the state board of education shall not knowingly issue a ~~certificate~~ *license* to or renew the ~~certificate~~ *license* of any person who:

(1) Has been convicted of a felony under the uniform controlled sub-

stances act; (2) has been convicted of a felony described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated or an act described in K.S.A. 21-3412 or K.S.A. 2002 Supp. 21-3412a, and amendments thereto, if the victim is a minor or student; (3) has been convicted of a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, other than an act specified in subsection (c) of K.S.A. 21-4619 and amendments thereto, or has been convicted of an act described in K.S.A. 21-3517 and amendments thereto, if the victim is a minor or student; (4) has been convicted of any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated, other than an act specified in subsection (c) of K.S.A. 21-4619 and amendments thereto; (5) has been convicted of a felony described in article 37 of chapter 21 of the Kansas Statutes Annotated; (6) has been convicted of an attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection; (7) has been convicted of any act which is described in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments thereto; (8) has been convicted in another state or by the federal government of an act similar to any act described in this subsection; or (9) has entered into a criminal diversion agreement after having been charged with any offense described in this subsection.

(c) The state board of education may issue a ~~certificate~~ *license* to or renew the ~~certificate~~ *license* of a person who has been convicted of committing an offense or act described in subsection (b) or who has entered into a criminal diversion agreement after having been charged with an offense or act described in subsection (b) if the state board determines, following a hearing, that the person has been rehabilitated for a period of at least five years from the date of conviction of the offense or commission of the act or, in the case of a person who has entered into a criminal diversion agreement, that the person has satisfied the terms and conditions of the agreement. The state board of education may consider factors including, but not limited to, the following in determining whether to grant a certificate:

- (1) The nature and seriousness of the offense or act;
  - (2) the conduct of the person subsequent to commission of the offense or act;
  - (3) the time elapsed since the commission of the offense or act;
  - (4) the age of the person at the time of the offense or act;
  - (5) whether the offense or act was an isolated or recurring incident;
- and
- (6) discharge from probation, pardon or expungement.

(d) Before any ~~certificate~~ *license* is denied by the state board of education for any of the offenses or acts specified in subsections (a) and (b), the person shall be given notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(e) The county or district attorney shall file a report with the state board of education indicating the name, address and social security number of any person who has been determined to have committed any offense or act specified in subsection (a) or (b) or to have entered into a criminal diversion agreement after having been charged with any offense or act specified in subsection (b). Such report shall be filed within 30 days of the date of the determination that the person has committed any such act or entered into any such diversion agreement.

(f) The state board of education shall not be liable for civil damages to any person refused issuance or renewal of a ~~certificate~~ *license* by reason of the state board's compliance, in good faith, with the provisions of this section.

Sec. 15. K.S.A. 72-1398 is hereby amended to read as follows: 72-1398. (a) The national board for professional teaching standards certification incentive program is hereby established for the purpose of rewarding teachers who have attained certification from the national board. Teachers who have attained certification from the national board shall be issued a master teacher's ~~certificate~~ *license* by the state board of education. A master teacher's ~~certificate~~ *license* shall be valid for 10 years and renewable thereafter every 10 years through compliance with continuing education and professional development requirements prescribed by the state board. Teachers who have attained certification from the national board and who are employed by a school district shall be paid an incentive

bonus in the amount of \$1,000 each school year, not exceeding 10 years, that the teacher remains employed by a school district and retains a valid master teacher's ~~certificate~~ *license*.

(b) The board of education of each school district employing one or more national board certified teachers shall pay the incentive bonus to each such teacher in each school year that the teacher retains eligibility for such payment. Each board of education which has made payments of incentive bonuses to national board certified teachers under this subsection may file an application with the state board of education for state aid and shall certify to the state board the amount of such payments. The application and certification shall be on a form prescribed and furnished by the state board, shall contain such information as the state board shall require and shall be filed at the time specified by the state board.

(c) In each school year, each school district employing one or more national board certified teachers is entitled to receive from appropriations for the national board for professional teaching standards certification incentive program an amount which is equal to the amount certified to the state board of education in accordance with the provisions of subsection (b). The state board shall certify to the director of accounts and reports the amount due each school district. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district entitled to payment under this section upon vouchers approved by the state board.

(d) Moneys received by a board of education under this section shall be deposited in the general fund of the school district. Moneys deposited in the general fund of the school district under this subsection shall be considered reimbursements to the district for the purpose of the school district finance and quality performance act and may be expended whether the same have been budgeted or not.

(e) As used in this section, the term school district means any school district organized and operating under the laws of this state.

Sec. 16. K.S.A. 2004 Supp. 72-4470 is hereby amended to read as follows: 72-4470. (a) Except as provided by K.S.A. 2004 Supp. 72-4470a, and amendments thereto, the governing body of a technical college shall be the board of the former area vocational school or the board of control of the former area vocational-technical school, whichever is applicable. Such board or board of control shall operate, control and manage a technical college in the same manner and to the same extent that was provided by law for the operation, management and control of the former area vocational school or area vocational-technical school and nothing in this act shall be applied or construed in any manner so as to change or affect any power, duty or function of a board or board of control with respect to such operation, management and control.

(b) The board or board of control of a technical college, in addition to such other powers expressly granted by law and subject to rules and regulations of the state board of regents, is hereby granted the following powers:

(1) To determine the vocational, technology, and general education courses of instruction that will comprise the associate of applied science degree programs of the college;

(2) to establish the requirements for satisfactory completion of the associate of applied science degree programs of the college;

(3) to confer the associate of applied science degree upon students who successfully complete an associate of applied science degree program of the college and to award a certificate or diploma to students who successfully complete a vocational education program of the college; and

(4) to appoint teaching staff and to fix and determine teacher qualifications, duties and compensation. No teacher appointed to teach courses comprising the associate of applied science degree programs of the college shall be required to meet ~~certification~~ *licensure* requirements greater than those required in the state educational institutions.

(c) The provisions of this section shall expire on June 30, 2009.

Sec. 17. K.S.A. 2004 Supp. 72-4470a is hereby amended to read as follows: 72-4470a. (a) On or before July 1, 2005, all technical college boards shall develop and present to the state board of regents a plan to replace the governing body described in K.S.A. 72-4470, and amendments thereto, with a new governing board, which shall be separate and

independent of any board of education of any school district, to operate, control and manage the technical college. The plan shall include, but not be limited to, provisions relating to:

- (1) The composition of the independent governing board;
- (2) the territory of the technical college. If the territory of the technical college includes more than one county, the plan shall designate a home county;
- (3) the method of election or appointment and the terms of service of the members of the independent governing board;
- (4) the date upon which the independent governing board shall assume management and control of the technical college;
- (5) the manner, terms upon which and extent to which the facilities, will be transferred to the independent governing board and the division of other assets and indebtedness and other liabilities; and
- (6) the manner and terms upon which faculty, employees and students will be transferred to the independent governing board. Subject to the provisions of K.S.A. 2004 Supp. 72-4478, and amendments thereto, such provisions shall specify terms of employment and address other personnel matters.

(b) (1) Upon approval of the plan by the state board of regents and the governing body of the technical college which submitted the plan, and on the date determined in the approved plan, the independent governing board established under subsection (a) of this section shall operate subject to the rules, regulations and supervision of the state board of regents in the same manner as other technical colleges, technical schools and area vocational technical schools.

(2) After June 30, 2007, if the governing body of the technical college and the state board of regents have not approved a plan submitted pursuant to subsection (a), the state board of regents shall have the power to approve the plan and upon such approval and on the date determined in the approved plan, the independent governing board established pursuant to subsection (a) shall operate subject to the rules, regulations and supervision of the state board of regents in the same manner as other technical colleges, technical schools and area vocational technical schools.

(c) In addition to such other powers expressly granted by law and subject to the provisions of subsection (b), the governing board shall have the power to:

- (1) Determine the vocational, technology and general education courses of instruction that will comprise the associate of applied science degree programs of the college;
- (2) establish the requirements for satisfactory completion of the associate of applied science degree programs of the college;
- (3) confer the associate of applied science degree upon students who successfully complete an associate of applied science degree program of the college and to award a certificate or diploma to students who successfully complete a vocational education program of the college;
- (4) appoint teaching staff and fix and determine teacher qualifications, duties and compensation. No teacher appointed to teach courses comprising the associate of applied science degree programs of the college shall be required to meet ~~certification~~ licensure requirements greater than those required in the state educational institutions;
- (5) have custody of, and be responsible for, the property of the college and be responsible for the operation, management and control of the college;
- (6) select a chairperson and such other officers as it deems desirable, from its membership;
- (7) sue and be sued;
- (8) appoint and fix the compensation and term of office of a president or chief administrative officer of the college;
- (9) fix and determine, within state adopted standards, all other employees' qualifications, duties, compensation and all other items and conditions of employment;
- (10) enter into contracts;
- (11) accept any gifts, grants or donations;
- (12) acquire and dispose of real or personal property;
- (13) enter into lease agreements as lessor of any property owned or controlled by the college;
- (14) adopt any rules and regulations, not inconsistent with any law or

any rules and regulations of the state board of regents, which are necessary for the administration and operation of the college or for the conduct of business of the governing board;

(15) contract with one or more agencies, either public or private, whether located within or outside the territory of the college or whether located within or outside the state of Kansas for the conduct by any such agency of academic or vocational education for students of the college and to provide for the payment to any such agency for the contracted educational services from any funds or moneys of the college, including funds or moneys received from student tuition and fees;

(16) appoint as its resident agent for the purpose of service of process, either the president of the technical college or the chairperson of the governing board, or both;

(17) take any other action, not inconsistent with any law or any rules and regulations of the state board of regents, which is necessary or incidental to the establishment, operation and maintenance of the college;

(18) issue bonds for capital improvement projects, enter into bond covenants and take such ancillary action as the governing board approves, relating thereto except that such bonds shall not be secured by a pledge of any property tax revenues of the technical college; and

(19) enter into agreements with counties relating to funding for capital improvement projects at technical colleges.

Sec. 18. K.S.A. 72-4526 is hereby amended to read as follows: 72-4526. (a) Boards shall employ teachers who have known competence in the subjects taught. School teacher ~~certification~~ *licensure* requirements shall be applied to adult education teachers only in cases where general education subjects are taught in adult basic education programs for grade school or high school credit.

(b) The board shall issue a certificate of accomplishment to every student completing an adult basic education course, which certifies the subjects studied and the accomplishments made therein. Such certificates shall be issued in accordance with the state plan.

(c) Any board may adopt regulations governing the operation of adult education programs. Any board may authorize persons not residents of the district to participate in adult education programs. The teachers and administrators in such adult education programs shall have the same authority over students as is exercised in regular school instruction.

Sec. 19. K.S.A. 72-53,103 is hereby amended to read as follows: 72-53,103. (a) The board of education of any school district may grant to a teacher of the district a leave of absence with full pay for a period of not more than one year to permit such teacher to teach in a foreign state under the provisions of the teacher exchange program established under public law 87-256, 75 Stat. 527, as amended, and public law 83-480, as amended. The board of education granting such leave of absence may employ with or without pay a national of the foreign state wherein the teacher on leave of absence will teach, if the national is qualified to teach in that foreign state, and if the national will be authorized to teach at a grade level and in a field or subject similar to that which the national is authorized to teach in such foreign state.

(b) Any teacher of this state who participates in the teacher exchange program and teaches in a foreign state shall be deemed to have taught during the period of exchange in the school district by which the teacher is employed for the following purposes: (1) Participation in the Kansas public employees' retirement system; and (2) entitlement to any benefits to which the teacher would have been entitled had the teacher taught in the school district.

(c) No liability, civil or criminal, with respect to the misuse of public funds, shall attach to any board of education, or any member thereof, for effectuating the provisions of this section.

(d) The state board of education shall adopt rules and regulations relating to the temporary ~~certification~~ *licensure* of teachers from a foreign state who participate in the teacher exchange program.

Sec. 20. K.S.A. 72-5412 is hereby amended to read as follows: 72-5412. All contracts shall be binding on both the teacher and board of education of the school district until the teacher has been legally discharged from such teacher's teaching position or until released by the board of education from such contract. Until such teacher has been dis-

charged or released, such teacher shall not have authority to enter into a contract with the board of education of any school district for any period of time covered in the original contract. If upon written complaint, signed by  $\frac{2}{3}$  of the members of the board of education of the school district, any teacher who is reported to have entered into a contract with another school or board of education without having been released from such former contract, or for other reasons fails to fulfill the provisions of such contract, such teacher, upon being found guilty of such charge at a hearing held before the state board of education, shall have such teacher's ~~certificate~~ *license* suspended for the remainder of the term for which such contract was made. The hearing before the state board shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Notwithstanding the foregoing provisions of this section, any contract of employment made by the board of education of any school district prior to the public hearing on the budget of such school district shall be voidable in case adequate funds are not available in such budget for the compensation provided for in such contracts.

Sec. 21. K.S.A. 72-5445 is hereby amended to read as follows: 72-5445. (a) (1) Subject to the provisions of subsection (b), the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, apply only to: (A) Teachers who have completed not less than three consecutive years of employment, and been offered a fourth contract, in the school district, area vocational-technical school or community college by which any such teacher is currently employed; and (B) teachers who have completed not less than two consecutive years of employment, and been offered a third contract, in the school district, area vocational-technical school or community college by which any such teacher is currently employed if at any time prior to the current employment the teacher has completed the years of employment requirement of subpart (A) in any school district, area vocational-technical school or community college in this state.

(2) Any board may waive, at any time, the years of employment requirements of provision (1) for any teachers employed by it.

(3) The provisions of this subsection are subject to the provisions of K.S.A. 72-5446, and amendments thereto.

(b) The provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, do not apply to any teacher whose ~~certificate~~ *license* has been nonrenewed or revoked by the state board of education for the reason that the teacher: (1) Has been convicted of a felony under the uniform controlled substances act; (2) has been convicted of a felony described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated or an act described in K.S.A. 21-3412 or K.S.A. 2002 Supp. 21-3412a, and amendments thereto, if the victim is a minor or student; (3) has been convicted of a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, or has been convicted of an act described in K.S.A. 21-3517 and amendments thereto, if the victim is a minor or student; (4) has been convicted of any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated; (5) has been convicted of a felony described in article 37 of chapter 21 of the Kansas Statutes Annotated; (6) has been convicted of an attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection; (7) has been convicted of any act which is described in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments thereto; (8) has been convicted in another state or by the federal government of an act similar to any act described in this subsection; or (9) has entered into a criminal diversion agreement after having been charged with any offense described in this subsection.

Sec. 22. K.S.A. 74-32,101 is hereby amended to read as follows: 74-32,101. As used in this act:

(a) "Executive officer" means the chief executive officer of the state board of regents appointed under K.S.A. 74-3203a, and amendments thereto;

(b) "qualified student" means a person who: (1) Is a resident of the state of Kansas; (2) has been accepted for admission to or is enrolled full time in a course of instruction leading to ~~certification~~ *licensure* as a teacher; and (3) has qualified for the award of a scholarship under the teacher service scholarship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified

for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled;

(c) “hard-to-fill teaching discipline” means a teaching discipline in which there is a critical shortage of teachers as determined and specified by the state board of education;

(d) “underserved area” means a geographic area of the state in which there is a critical shortage of teachers as determined and specified by the state board of education.

Sec. 23. K.S.A. 74-32,102 is hereby amended to read as follows: 74-32,102. (a) There is hereby established the teacher service scholarship program. A scholarship may be awarded under the teacher service scholarship program to any qualified student and may be renewed for each such student who remains qualified for the scholarship. Determination of the students qualified for such scholarships shall be made by the executive officer. Scholastic ability shall be determined on the basis of any one or more of the following: (1) High ACT or SAT score; (2) rank in high school graduation class; (3) cumulative high school or college grade point average; or (4) any other indicator of scholastic ability which the state board of regents determines to be demonstrative of potential for successful completion of a course of instruction leading to ~~certification~~ *licensure* as a teacher. To the extent practicable and consistent with qualification factors, consideration shall be given to students who are members of ethnic minority groups.

(b) A scholarship awarded under the program shall provide for payment to a qualified student of (1) an amount not to exceed 70% of the cost of attendance for an academic year at the teacher education school in which the qualified student is enrolled if such teacher education school is maintained by a state educational institution or (2) an amount not to exceed 70% of the average amount of the cost of attendance for an academic year at the teacher education schools maintained by the state educational institutions if the teacher education school in which the qualified student is enrolled is not a state educational institution. A qualified student may be awarded a scholarship for not more than four academic years of undergraduate study, except that a qualified student who is enrolled full time in a course of instruction leading to ~~certification~~ *licensure* in a teaching discipline for which graduate study is required may be awarded a scholarship for the duration of the course of instruction.

Sec. 24. K.S.A. 74-32,103 is hereby amended to read as follows: 74-32,103. (a) An applicant for designation as a qualified student and for the award of a scholarship under the teacher service scholarship program shall provide to the executive officer, on forms supplied by the executive officer, information required by the executive officer.

(b) As a condition to awarding a scholarship under this act, the executive officer and the applicant shall enter into an agreement which shall require the applicant to:

(1) Complete the required course of instruction leading to ~~certification~~ *licensure* as a teacher;

(2) engage in teaching in Kansas in an underserved area or in a hard-to-fill teaching discipline and comply with such other terms and conditions as may be specified by such agreement;

(3) commence teaching on a full-time basis in Kansas in an accredited public or private elementary or secondary school in accordance with the agreement and continue teaching on a full-time basis for a period of not less than the length of the course of instruction for which the scholarship was awarded or commence teaching on a part-time basis in Kansas in an accredited public or private elementary or secondary school in accordance with the agreement and continue teaching on such a part-time basis for a period of time that is equivalent to full time, as determined by the state board of regents, multiplied by the length of the course of instruction for which the scholarship was awarded;

(4) commence teaching in Kansas on a full-time or part-time basis within six months after certification and continue teaching for the period of time required by the agreement;

(5) maintain records and make reports to the executive officer as required by the executive officer to document the satisfaction of the obligations under this act and the agreement; and

(6) upon failure to satisfy an agreement to engage in teaching in an underserved area or in a hard-to-fill teaching discipline for the required period of time under any such agreement, repay to the state amounts as provided in K.S.A. 74-32,104, and amendments thereto.

Sec. 25. K.S.A. 74-32,105 is hereby amended to read as follows: 74-32,105. (a) Except as otherwise specified in the agreement, an obligation under any agreement entered into under the teacher service scholarship program shall be postponed: (1) During any required period of active military service; (2) during any period of service as a part of volunteers in service to America (VISTA); (3) during any period of service in the peace corps; (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under section 501(c)(3) of the federal internal revenue code as in effect on December 31, 2000; (6) during any period of time the person obligated is unable because of temporary medical disability to teach; (7) during any period of time the person obligated is enrolled and actively engaged on a full-time basis in a course of study leading to a degree in the field of education which is higher than that formerly attained; (8) during any period of time the person obligated is on job-protected leave under the federal family and medical leave act of 1993; or (9) during any period of time the state board of regents determines that the person obligated is unable because of special circumstances to teach. Except for clauses (6), (8) and (9), an obligation under any agreement entered into as provided in the teacher service scholarship program shall not be postponed more than five years from the time the obligation was to have been commenced under such agreement. An obligation under any agreement entered into as provided in the teacher service scholarship program shall be postponed under clause (6) during the period of time the medical disability exists. An obligation under any agreement entered into as provided in the teacher service scholarship program shall be postponed under clause (8) during the period of time the person obligated remains on FMLA leave. An obligation to engage in teaching in accordance with an agreement under the teacher service scholarship program shall be postponed under clause (9) during the period of time the state board of regents determines that the special circumstances exist. The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for determination of the existence of special circumstances causing an inability to teach, and shall determine the documentation required to prove the existence of such circumstances.

(b) An obligation under any agreement entered into as provided in the teacher service scholarship program shall be satisfied: (1) If the obligation has been completed in accordance with the agreement; (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to satisfy the obligation; (4) if the person obligated fails to satisfy the requirements for a graduation from a teacher education program after making the best effort possible; (5) if the person obligated fails to satisfy all requirements for ~~certification licensure~~ to teach in Kansas or has been denied ~~certification licensure~~ after applying for a ~~certificate license~~ to teach and making the best effort possible to obtain such ~~certificate license~~; or (6) if the person obligated is unable to obtain employment as a teacher in an underserved area or in a hard-to-fill teaching discipline after making the best effort possible to obtain such employment and the person obligated otherwise completes the terms, conditions and obligations of the agreement.

Sec. 26. K.S.A. 71-201, 72-1381, 72-1383, 72-1387, 72-1388, 72-1389, 72-1390, 72-1392, 72-1393, 72-1394, 72-1395, 72-1396, 72-1397, 72-1398, 72-4526, 72-53,103, 72-5412, 72-5445, 74-32,101, 74-32,102, 74-32,103 and 74-32,105 and K.S.A. 2004 Supp. 72-4470 and 72-4470a are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_  
SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*