

MINUTES

2022 LEGISLATIVE TASK FORCE ON COMMUNITY AND TECHNICAL COLLEGE STATE FUNDING

August 30, 2022
Room 582-N—Statehouse

Members Present

Representative Susan Humphries, Chairperson
Senator Molly Baumgardner, Vice-chairperson
Senator Rick Billinger
Senator Tom Hawk
Representative Troy Waymaster
Representative Valdenia Winn, appointed substitute member to the Task Force
Representative Brandon Woodard
Heather Morgan, Executive Director, Kansas Association of Community College Trustees
Carter File, President, Hutchinson Community College
Alysia Johnston, President, Fort Scott Community College
Greg Nichols, President, Salina Technical College
Ben Schears, President, Northwest Kansas Technical College
Blake Flanders, President and Chief Executive Officer, Kansas Board of Regents

Members Absent

Representative Kathy Wolfe Moore, Excused

Staff Present

Victoria Potts, Kansas Legislative Research Department, (KLRD)
Jessa Farmer, KLRD
Jessie Pringle, Office of Revisor of Statutes
Jill Wolters, Office of Revisor of Statutes
Nick Myers, Office of Revisor of Statutes
Deborah Bremer, Committee Assistant

Conferees

Elaine Frisbie, Vice President for Finance & Administration, Kansas Board of Regents
(KBOR)
Kelly Oliver, Senior Director, Finance and Administration, KBOR

TUESDAY, AUGUST 30 ALL DAY SESSION

Welcome and Introductions

Chairperson Humphries called the meeting to order at 10:10 a.m. The members of the Task Force introduced themselves. The Chairperson noted Representative Winn was attending the meeting for Representative Wolfe Moore. The Chairperson noted the goal of the meeting was to have a robust and comprehensive conversation about the issues of funding.

Overview of Two Year College Funding Model

Nick Myers, Office of Revisor of Statutes, gave an overview of the statutory procedure of the funding system, a cost model, for community colleges and technical colleges. Funding both for the provision of general education and technical courses is determined using the cost model required by state law; funding for technical education takes into account additional costs to deliver those courses. He gave a brief history of the establishment of this method. In 2007, 2009, and 2011 there were major legislative efforts to codify funding into statute. The postsecondary tiered technical education state aid is determined by the tiered technical course credit hours for students who are deemed Kansas residents using the statutory framework for community colleges or rules and regulations for technical colleges. The cost calculation model is based on many factors. This formula is set by the Kansas Board of Regents (KBOR). The non-tiered course credit hour grant amount is set by KBOR. Mr. Myers explained the definitions of “tiered technical course,” “non-tiered course,” “technical program,” and “credit hour.” ([Attachment 1](#))

Mr. Myers continued explaining the appropriations from FY 2023 to the tiered (\$66.0 million) and non-tiered (\$95.0 million) courses. Additionally, the Legislature directed KBOR to distribute funding in FY 2023 such that each institution would receive no less than they received in FY 2022 with the directive that by FY 2025, the funding formula would be fully implemented. Between FY 2023 and FY 2025, funds will be recentered among institutions to ensure each school is funded according to the cost model. In FY 2024, appropriations of institutions who are overfunded will be reduced by 50 percent of the overfunded amount. In FY 2025, all institutions will be funded according to the cost model.

Chairperson Humphries noted that the handout showing present gap calculations would be central to the conversation of the current task force meeting. She explained how the underfunding and overfunding chart works. She also noted the focus of the task force’s discussion would be based on the FY 2024 Distribution Scenario with Appropriation Provision Impact document. ([Attachment 2](#))

Other handouts included:

KBOR FY 2023 Approved Funding Distributions Postsecondary Tiered Technical Aid ([Attachment 3](#))

2022 Tiered and Non-Tiered State Aid GAP (KLRD) ([Attachment 4](#))

Excel in Career Technical Education Initiative (KBOR) ([Attachment 5](#))

Task force members discussed how the calculation of funding was decided. A proviso requiring that each institution receive no less funding than they had the previous year had been in place for about ten years, and the mismatch of funding was created over time as schools grew and changed. A task force member requested information on underfunding in the past few years. KLRD staff distributed a document with data on eight academic years (2014-2021) of tiered state aid, non-tiered, and the net combination. ([Attachment 6](#))

Task Force members discussed the following issues related to funding:

- How the COVID-19 pandemic, recession, and other factors have created a different environment. For instance, being underfunded makes it difficult for a college to implement popular courses that cost more to offer;
- How the Legislature has focused on the underfunding issues in K-12 education and now the higher education institutions are needing the same attention;
- How community colleges levy a local property tax and technical colleges do not;
- How colleges are managing despite the funding shortfall;
- How tuition and taxes are sources of funding but must be set to work in a positive way with students and with property owners;
- That community colleges have three main funding sources: local property taxes, tuition, and state aid. The technical colleges operate with two main funding sources: tuition and state aid. Technical courses also cost more to offer because they require equipment and infrastructure. Task Force members noted philanthropy is another funding source, but the issue of property tax could be looked at; and
- That the relationship between residency requirements and funding is important and should be part of the Task Force discussion.

Elaine Frisbie, KBOR, provided an overview of the history and calculation of the instructional cost model for Kansas resident students. For every tiered course, four factors determine course rate: instructor costs, instructional support costs, institutional costs (overhead) and extraordinary costs (equipment and infrastructure). Non-tiered courses have three factors for course rates: instructor costs, instructional support costs, and institutional support costs. The course rate is then multiplied by the number of eligible student credit hours (SCH) to calculate total course costs. This, Ms. Frisbie said, is the key part of the calculation. ([Attachment 7](#))

Ms. Frisbie explained how KBOR sources cost data and how the instructional cost model is created. There is a distinction made in the model for community college students based on whether they are in-district or out-district (local taxing only applies to in-district students). There are 25 cost model composite rates ranging from \$222 to \$519 per credit hour for 2021 enrollments. The FY 2023 state aid payments are based on these rates. Ms. Frisbie then presented data on the composite rates over the past ten years. She gave two examples of

students in different places taking different technical courses and how the funding is created for each individual. The aid is based per student, per class. She said the state aid can be very different using the cost input data and sources of revenue available to a college.

Task Force members noted there is a major difference in colleges in terms of the number of out-of-district students. Western colleges, like the community college in Dodge City, tend to have primarily in-district students, whereas other colleges in different parts of the state will have more out-of-district students. A Task Force member requested information on the percentage of tiered and non-tiered funding between community and technical colleges. The in-district and out-district designation applies to Kansas residents only.

Ms. Frisbie noted enrollment has dropped over the past decade for community colleges, and enrollment was growing for technical colleges until the COVID-19 pandemic. Ms. Frisbie also provided data on the calculated gaps in state aid from academic years 2014 to 2021. Due to the proviso requiring each institution to receive no less than the amount of funding it received the previous year and limited funding, some institutions were historically underfunded. She said FY 2023 is the first year in which the Legislature has appropriated adequate state funds so that no institution is underfunded. The GAP calculation per institution cannot be easily correlated with only changes in student credit hours; the types of courses being taken also affect funding allocations. She said the timeline between data collection and distribution of state aid is long. For instance, at the end of academic year 2020, the schools submitted their data, KBOR ran this with their own data sources, then the Legislature appropriated funding, and the funding was paid in two payments, one in August 2020 and one in January 2021. Ms. Frisbie noted there is long time between when the student enrolls and when the college gets the state aid payment for that action.

There was a discussion about the timeline of payment and whether colleges have the opportunity to review their proposed funding allocation from KBOR. Ms. Frisbie stated colleges receive a certified letter after KBOR approves the funding allocations and have 30 days to respond to the letter.

In response to a request from a Task Force member, Ms. Frisbie explained the process for data collection for the Excel in Career Technical Education Initiative (SB 155) program. Prior to calendar year 2021, KBOR utilized two special data collections in which each college submitted the number of students participating in the SB 155 program. Funding was distributed twice a year based on these data collections. During the 2021 Legislative Session, a proviso was added requiring KBOR to distribute funding to the colleges within 60 days of the class start date.

Responding to a question on whether colleges have the opportunity to review the program data they have submitted to KBOR, Ms. Frisbie stated there is a time period in which schools can look at the state aid and make sure there are no issues. In the data submission portal, potential errors are highlighted. Additionally, KBOR staff reaches out if there are apparent problems. At the end of the data submission process, each institution's president certifies their enrollment data used for calculating state funding in the cost model. There is a way to see, in the KBOR data system, what amount each course and student would be given in state aid.

Task Force members discussed the 60-day proviso and whether it is helpful. The college president members of the Task Force noted the 60-day proviso creates extra work for them and for the KBOR staff. A Task Force member said the proviso was possibly added because of the gap in funding but it might not be helpful at present.

Ms. Frisbie explained what happens if incorrect data is submitted to the system by a college. She noted it is possible to adjust funding allocations, but it is complex when the adjustment would affect the funding of other colleges and funding has already been distributed. There is a 30-day appeal process if a college believes there are errors in funding calculation. KBOR then examines the nature of the error. If there is an error, KBOR would work with the college, but Ms. Frisbie noted that there has yet to be an appeal filed.

A Task Force member said the 60-day proviso had an unintended consequence. It means the SB 155 program funding calculation is based on the previous year's data. If a college were to add an additional course to the program, funding needs for that course would not be considered in the funding calculation until the following fiscal year. A Task Force member said that this is detrimental for colleges trying to fund a new program.

Revisor Nick Myers returned to the podium to provide information on institutional performance agreements. From 1999, 2001, 2003, and 2005 there is a history of moving the community colleges and technical colleges from being supervised by the State Board of Education to KBOR. KBOR was charged with supervising performance measures, and the colleges were asked to develop institutional improvement plans showing how the performance indicators would be implemented and measured by each school. As of 2005, state law provides that each college's receipt of new state funds is contingent on compliance with the performance agreement.

Task Force members discussed how these agreements have been put into effect. In response to a request for examples of how the agreements are implemented and when funds are withheld, Ms. Frisbie stated instances have occurred in which a college does not meet the metrics it has chosen for its performance agreement. If a college does not meet the metrics, there is a process for a college to present their reasons for not meeting the metric to KBOR and negotiate for a higher (75 percent, 90 percent, 100 percent) allocation of new funding. Pandemic issues were offered as an example as a reason for not meeting metrics. A member of the Task Force provided an example in which a college did not meet one of its four required metrics (out of six) and cited pandemic-related reasons. After the appeal process, and because it was pandemic related, the appeal was approved, and the college received 100 percent of its new state funding allocation.

Task Force members discussed the performance agreements in terms of the six measures. Three of the measures are chosen by each college from a list provided by KBOR. The other three measures are created by each college. The school must meet four out of six. Task Force members noted KBOR is currently reviewing the entire performance agreements process.

In response to questions, Mr. Myers noted statute states performance agreements should be based on the institutional improvement plans each college is required to develop. Statute also states that the institutional improvement plans are under the guidance of KBOR and should show how performance indicators will be implemented and measured by each college. Statute has not been amended to change these provisions. Mr. Myers also noted that new state funds, as related to performance agreements, is defined in statute as the amount of state moneys received by an institution in a preceding fiscal year versus the amount of state moneys that the institution is eligible to receive in the applicable fiscal year, excluding those moneys that are designated by the Legislature to a specific institution or purpose.

He said an explanation of the performance agreements and copies of each performance agreement are on the KBOR website. Performance agreements apply to all postsecondary educational institutions, including universities. The issue of new money being put at risk by performance agreements and what falls within the definition of new state funds was discussed by Task Force members. The statute on performance agreements could be changed by the Legislature to make legislative intent more clear. It was noted that because schools are worried about losing new state funds, they take fewer risks and set more easily attainable metrics. When funding is at risk, an institution will be more comfortable, and the goal of moving forward in performance is lost.

The Task Force took a break for lunch until 1:00 p.m.

Committee Review and Discussion

Reconvening, Chairperson Humphries asked what happens to the money that is not allocated when a college fails to meet all metrics of their performance agreement. Ms. Frisbie noted that the Legislature added a proviso that prohibits KBOR from transferring moneys from the tiered and non-tiered accounts, so the moneys lapse back to the State General Fund.

Task Force members then discussed “new money” and what exactly the definition is for new state funds. For instance, the Promise Scholarship is presently funded at \$10.0 million. If the Legislature added \$3.0 million, is this considered new money, and is it subject to new rules and regulations such as the performance agreement that might make the money at risk? Task Force members stated a clear definition for new state funds needs to be created. Ms. Frisbie noted that Promise Scholarship funds could not be put at risk by a performance agreement, as this money is allocated to students, not to colleges for operations.

A Task Force member asked about audits performed on data submitted by colleges. Task Force members noted that statutorily, KBOR does not have auditing authority over higher education institutions. If the Legislature wants an audit, they can go through the post audit process, or statute could be changed to grant KBOR auditing authority.

Revisor Myers then gave his presentation on statutory regulations for residency requirements related to state aid to students in Kansas. The basic requirement for Kansas student residency is to live in state for six months prior to enrollment. In addition, active military service members, certain military service members who have established domiciliary residence, employees of a community college, persons having special domestic relations circumstances (such as a student whose parents are going through a divorce), persons who lost their resident status within six months of enrollment, students who were living in Kansas at graduation of high school or 12 months prior, and persons recruited for employment may be considered residents for state aid purposes. Mr. Myers reviewed the rules and regulations that govern community and technical colleges residency determinations for state aid purposes, including the factors a college may consider when determining residency for state aid purposes. An admissions officer is designated by each college to determine the residency status of each enrolled student.

In response to a question, Mr. Myers noted that at the time of enrollment, if a student meets the qualifications in the prior six months, they are considered a resident student at a community college, but he could not confirm whether that status is ever reevaluated. Task Force members noted that if a student enters a community college as a resident, they will be considered a resident throughout their tenure at the community college. Community colleges do

reevaluate students who enter as non-residents to determine whether they have become residents.

In response to a question on whether residency requirements are the same for community and technical colleges, Mr. Myers noted that the statutes cited in his memorandum only specify community colleges. Community college residency requirements were set in statute in 1972 and amended in 1999. KBOR rules and regulations apply to both community and technical colleges. Task Force members noted when a student enters a technical college, they are considered a Kansas resident if they live in Kansas on the first day of attendance. The technical colleges developed as part of school districts and were governed by school boards, so the residency requirements for Kansas high school students became the norm in the adjoining technical schools.

Task Force members discussed the differences between the community college and the technical college residency requirements. Technical colleges do not count students who drive from another state as residents for purposes of state aid, but if those students choose to move to and reside in Kansas, either in a dorm or apartment, then they are considered residents. The technical college tuition for in-state and out-of-state students is the same, according to two presidents of technical colleges on the Task Force. Community college residency requirements were set in statute in 1972 and amended in 1999.

Chairperson Humphries noted that the number of residents per college impacts the amount of state aid a college receives, so this is an important issue. Task Force members discussed the breakdown of sources of funding per student credit hour for community college in-district and out-district and technical colleges. It was mentioned that when the schools are fully funded according to the cost model, residency requirements will make more of a difference to colleges. If students can become residents during their educational experience, this would affect state aid funding. Prior to being fully funded according to the formula, residency requirements were not as much of an issue.

There was a question about what happens when the state funding appropriation for the Excel in Career Technical Education Initiative (SB 155) program is greater than the calculated cost of the program. Ms. Frisbie explained that the extra money rolls over into the following year. Unspent money that rolls over affects the upcoming budget request.

The Task Force discussed the increased FY 2023 tiered and non-tiered appropriations by the Legislature and the provisos creating recentering of funding process so that all colleges are funded according to the formula in FY 2025. Last year, the Legislature fully funded tiered and non-tiered education state aid, meaning that no college was underfunded according to the cost model and all overfunded colleges were held at the same level of funding as the previous year. Task Force members discussed whether the tiered and non-tiered funding should be put into one fund or kept separate. Task Force members also discussed whether the data used for the cost model calculation should be changed to a three-year rolling average instead of the single previous year data. Task Force members agreed that using a three-year average would create more consistency for colleges and smooth variations in state aid from year to year.

Committee Recommendations

The Chairperson invited Task Force members to develop recommendations from the day's discussion. Task Force members agreed to making the following recommendations.

1. The Task Force recommends KBOR use a three-year average (current year and two previous years) of data to calculate funding distributions for tiered and non-tiered education state aid rather than single previous year data.

2. The Task Force recommends that the Legislature review the statutory definition of “new state money” as it relates to performance agreements and consider creating a new definition.

3. The Task Force urges KBOR to review the current performance agreement process and consider creating a process that incentivizes larger goals rather than punishing colleges for not meeting metrics. Along with this, the Task Force recommends the Legislature consider funding the 2 percent performance incentive that was previously unfunded.

4. The Task Force recommends the Legislature review and consider removing the proviso requiring that funding for the Excel in Career Technical Education Initiative (SB 155) program be distributed by KBOR within 60 days of the class start date.

5. The Task Force recommends the Legislature consider granting KBOR auditing authority or utilizing the Legislative Post Audit process if audits are needed of the data inputted by colleges for cost model calculation.

6. The Task Force recommends the Legislature review statutes related to residency requirements and review where residency requirements for technical colleges originated and consider putting such requirements in statute.

7. The Task Force recommends the Legislature add reappropriation authority to the tiered and non-tiered funding line items in the appropriations bill.

8. The Task Force recommends the Legislature review the proviso prohibiting KBOR from transferring moneys between the tiered and non-tiered accounts.

9. The Task Force recommends the Legislature ensure that the recentering of tiered and non-tiered education state aid funding occur as required in 2022 House. Sub. for Sub. for SB 267.

The Chairperson thanked the staff and everyone on the Task Force, especially those who traveled a great distance. The meeting was adjourned at 3:38 p.m.

Prepared by Deborah Bremer

Edited by Jessa Farmer

Approved by the Committee on:

October 7, 2022

(Date)