

2016 LEGISLATIVE HIGHLIGHTS

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SPECIAL SESSION

K-12 Education Funding

<u>Sub. for HB 2001</u> makes appropriations for K-12 education, alters a statutory formula for Supplemental General State Aid, eliminates a hold harmless provision, and amends law related to virtual school state aid and the School District Extraordinary Need Fund (ENF).

For fiscal year 2017 (school year 2016-17), the bill appropriates \$99,408,027 for Supplemental General State Aid. The bill also changes the appropriation for the ENF from \$15.2 million to \$13.0 million, which will be reduced if the sale of the Kansas Bioscience Authority yields less than \$38.0 million in proceeds. The bill also reinstates the Supplemental General State Aid formula in effect prior to the enactment of 2015 House Sub. for SB 7 and eliminates the hold harmless provision contained in 2016 Senate Sub. for HB 2655. Finally, the bill amends the virtual school state aid formula so that school districts will continue to receive \$5,000 per full-time virtual school student in fiscal year 2017, rather than the previously scheduled rate of \$5,600 per full-time virtual student.



AGRICULTURE & NATURAL RESOURCES

Conservation Reserve Enhancement Program

<u>SB 330</u> establishes the Kansas Conservation Reserve Enhancement Program (CREP) in statute. The CREP was first created by the 2007 Legislature and has existed since then by its authorizing language being annually included in appropriations bills.

Water Rights and Permits; Division of Water Resources

House Sub. for SB 337 amends existing law regarding water rights and permits, allows suspension of water rights for failure to file a water use report, changes the way the Chief Engineer provides notice of program changes or proposed rules and regulations impacting local groundwater management districts, and requires the Chief Engineer be a classified position.

Nongame and Endangered Species Act— Amendments

Senate Sub. for HB 2156 creates three exceptions to existing permit requirements in the Nongame and Endangered Species Act. The new exceptions include: most normal farming and ranching practices; most development of residential and commercial property on privately owned property; and activities for which a person has obtained a scientific, educational, or exhibition permit. On and after July 1, 2016, a recovery plan for all new threatened or endangered species must be completed within four years. If the recovery plan is not completed, no permit will be required for activities that would otherwise require a permit.



ALCOHOL, DRUGS, AND GAMBLING

Microbrewery Licensees; Hard Cider

<u>SB 326</u> amends several statutes related to the production of alcohol, including increasing microbrewery production limits; authorizing the manufacture of hard cider; and removing the one-year residency requirement for microbrewery, microdistillery, and farm winery licensees.



CHILDREN & YOUTH

Minor in Possession of Alcohol—Immunity from Liability for Seeking Assistance

SB 133 amends the crime of minor in possession of alcohol to provide immunity from prosecution for a person, and up to two other persons acting with such person, who initiate contact with law enforcement or emergency medical services, request medical assistance on such person's behalf, and cooperate with emergency personnel and law enforcement in providing medical assistance.

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Similarly, immunity is extended to up to three persons who initiate contact with law enforcement or emergency medical services, request medical assistance for another person who reasonably appears to need such assistance, provide the full names of the persons requesting assistance, remain at the scene with the person needing assistance, and cooperate with emergency personnel and law enforcement in providing medical assistance. Immunity also is extended to the person needing assistance if the person cooperates with emergency personnel and law enforcement. The bill prohibits any action against a law enforcement officer or such officer's employer based upon the officer's compliance or failure to comply with its provisions.

Juvenile Justice System

SB 367 amends law related to the Kansas juvenile justice system.

Juveniles in Custody. The bill narrows the persons authorized to take a juvenile into custody and makes delivery of a juvenile to the juvenile's parent the default in most instances. The bill also requires juvenile intake and assessment workers, who must be trained in evidence-based practices, to make both release and referral determinations once a juvenile is taken into custody.

Immediate Interventions and Community-Based **Programs.** The bill requires the Kansas Department of Corrections (KDOC) and the Office of Judicial Administration (OJA) to develop standards and procedures for an immediate intervention process and programs and alternative means of adjudication. The bill requires KDOC to plan and fund incentives for the development of immediate intervention programs, removes limitations on eligibility for such programs, requires immediate intervention be offered to certain juveniles, and requires juveniles making a first appearance without an attorney to be informed of the right to an immediate intervention. Further, courts must appoint a multidisciplinary team to review cases when a juvenile does not substantially comply with the development of an immediate intervention plan.

Eligibility for alternative means of adjudication is changed from a juvenile committing a misdemeanor to a juvenile with fewer than two adjudications. The bill establishes overall case length and probation length limits for all juvenile offenders except those adjudicated of the most serious felonies.

The bill also requires KDOC to consult with the Supreme Court in adopting rules and regulations for a statewide system of structured, community-based, graduated responses for technical probation violations, conditional release violations, and sentence condition violations, which community supervision officers will use based on the results of a risk and needs assessment. The community supervision officer must develop a case plan with the juvenile and the juvenile's family. Probation revocation may be considered only for a third or subsequent technical violation, subject to additional limitations. KDOC is required to develop an earned-time calculation system for the calculation of sentences. Similarly, the Supreme Court and KDOC must establish a system of earned discharge for juvenile probationers.

Criteria for Detention and Alternatives. KDOC and OJA are required to develop, implement, and validate a statewide detention risk assessment tool for each youth under consideration for detention. The criteria for detention are amended to require certain detention risk assessment results or grounds to override such results. Courts must establish a specific term of detention when placing a juvenile in detention, which may not exceed the overall case length limit.

The bill prohibits placement in a juvenile detention center in certain circumstances and removes juvenile detention facilities as a placement option under the Revised Kansas Code for Care of Children unless the child also is alleged to be a juvenile offender and the placement is authorized under the Juvenile Code. The permissible justifications for extended detention are narrowed, and a detention review hearing is required every 14 days a juvenile is in detention, except for juveniles charged with the most serious offenses.

The bill requires OJA and KDOC to adopt a single, uniform risk and needs assessment to be administered and used statewide in the post-adjudication and predisposition process. The bill narrows and eliminates some alternatives and amends the alternative allowing commitment to a juvenile correctional facility (JCF) to allow placement in a JCF or youth residential facility. Effective January 1, 2018, the Secretary

may contract for up to 50 non-foster home beds in youth residential facilities for placement of juvenile offenders. The bill limits commitment to detention and adds certain short-term placement options if a juvenile has been adjudicated of certain sexual or human trafficking-related offenses. Further, KDOC must develop community integration programs for juveniles ready to transition to independent living.

The bill amends the placement matrix for commitment to a JCF to require a written finding before such placement, remove a departure sentence provision, create a serious offender category, remove two chronic offender categories, and create a rebuttable presumption certain offenders will be placed in a youth residential facility instead of a JCF. The bill also requires a case plan be developed for every juvenile sentenced to a JCF, with input from the juvenile and the juvenile's family.

Adult Prosecution. The bill limits extended jurisdiction juvenile prosecution to cases involving the most serious offenses and raises the age for adult prosecution from 12 to 14

Implementation. The bill establishes a 19-member Kansas Juvenile Justice Oversight Committee to oversee implementation of reforms in the juvenile justice system and requires annual reports. The bill adds a juvenile defense representative member to the previously-existing juvenile corrections advisory boards and requires the boards to adhere to the goals of the Juvenile Code and coordinate with the Oversight Committee. The boards must annually consider the availability of treatment programs, alternative incarceration programs, mental health treatment, and development of risk assessment tools, and report annually to KDOC and the Oversight Committee the costs of programs needed in its judicial district to reduce out-of-home placement and improve recidivism.

The bill requires KDOC and OJA to provide at least semiannual training on evidence-based programs and practices to individuals who work with juveniles. OJA is required to designate or develop a training protocol for judges, county and district attorneys, and defense attorneys who work in juvenile court. Further, the bill requires the Attorney General to collaborate with the Kansas Law Enforcement Training

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Center and State Board of Education (KSBE) to create skill development training for responding effectively to misconduct in school, while minimizing student exposure to the juvenile justice system; and directs KSBE to require school districts to develop and approve memorandums of understanding with guidelines for referral of school-based behaviors to law enforcement or the juvenile justice system.

Host Families Act; Family Law Code; Children, Families, and Juveniles

SB 418 amends the law related to children, families, and juveniles.

Host Families Act. The bill establishes the Host Families Act, which allows a child placement agency or other Kansas charitable organization to provide temporary care of children by placing a child with a host family. Host families are subject to screening and background checks and do not receive payment other than reimbursement for actual expenses. Placement must be voluntary and shall not be considered an out-of-home placement, supersede any court order, or preclude any investigation of suspected abuse or neglect. A parent may place a child by executing a power of attorney that delegates to a host family any powers regarding the care and custody of the child, except power to consent to marriage or adoption, performance or inducement of an abortion, or termination of parental rights. The power of attorney may not be executed without the consent of all individuals with legal custody of the child, and execution is not evidence of abandonment, abuse, or neglect.

The power of attorney may not exceed one year but may be renewed for one additional year. The bill includes an exception, however, for parents serving in the military, who may delegate powers for a period longer than one year if on active duty service, but no more than the term of active duty service plus 30 days. A parent executing a power of attorney under the Act can revoke or withdraw the power of attorney at any time. Upon such withdrawal or revocation, the child must be returned to the parent as soon as reasonably possible.

Amendments to the Family Law Code, the Child in Need of Care (CINC) Code, and the Juvenile Justice Code. In determining child custody, residency, and parenting time,

the bill allows courts to order a parent to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and to follow all of the program's recommendations.

The bill amends the CINC Code to specify nothing in the Code compels a parent to medicate a child if the parent is acting in accordance with a physician's medical advice, and in these circumstances, absent a specific showing of a causal relation between the actions and harm to the child, a parent's actions do not constitute a basis for determination that a child is a CINC, removal of custody of a child, or termination of parental rights.

The bill also allows county or district attorneys from another jurisdiction to access the official file and social file in a CINC proceeding when involved with a pending CINC case regarding any of the same parties or interested parties. Further, the bill amends provisions in the CINC Code and Juvenile Justice code concerning human trafficking, sexual exploitation of a child, children in need of care, and juvenile offenders.



Concealed Carry Provisions

HB 2502 prohibits school districts from adopting policies preventing organizations from conducting activities on school property solely because the activities involve the possession and use of air guns and prohibits public employers from restricting or prohibiting through personnel policies any employee legally qualified to conceal carry from carrying a concealed handgun while engaged in employment duties outside the employer's place of business. The bill makes several amendments to concealed carry statutes to allow active duty military personnel to apply for and receive a concealed carry license while stationed outside of Kansas and makes the requirements for prohibiting concealed carry in public areas the same as those found in existing law for prohibiting concealed carry in public buildings. The bill also allows entry through restricted access entrances for persons who are not

state or municipal employees or otherwise authorized to enter a state or municipal building through a restricted access entrance and amends the definition of "adequate security measures."



Possession of Marijuana, Theft, and Burglary

HB 2462 amends the crimes of possession of marijuana, theft, and burglary.

Possession of Marijuana. The bill makes a first offense a class B nonperson misdemeanor; a second offense, a class A nonperson misdemeanor; and subsequent offenses, a drug severity level 5 felony. Previously, a first offense was a class A nonperson misdemeanor and subsequent offenses, a drug severity level 5 felony.

Theft. The bill increases the dividing line between class A misdemeanor and severity level 9, nonperson felony theft of property or services from \$1,000 to \$1,500, and adjusts other exceptions raising the crime from a misdemeanor to a felony to reflect the increased amount. The bill also establishes a floor of \$50 for the exception raising the severity level to a severity level 9, nonperson felony when a person has been convicted of theft 2 or more times and adds a 5-year lookback to this exception.

Burglary. The bill creates a special sentencing rule for burglary of a dwelling to make the sentence presumptive imprisonment if the offender has been convicted of one person felony and one nonperson felony, one person felony, or three or more nonperson felonies. The bill makes burglary of a dwelling with intent to commit theft of a firearm a person felony, rather than a nonperson felony.

The bill amends the crime of aggravated burglary to make aggravated burglary committed by entering or remaining in a dwelling in which there is a human being, with the required intent, a severity level 4, person felony. The bill further establishes the crimes of burglary and aggravated burglary do not apply to a person who enters or remains in retail or commercial premises that are open to the public, after having

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been told not to enter pursuant to the criminal trespass statute, except when the person enters or remains in such premises with the intent to commit a person felony or sexually motivated crime.

Visual Depiction of a Child, Breach of Privacy, and Blackmail

HB 2501 creates the crime of unlawful transmission of a visual depiction of a child, defined as knowingly transmitting a visual depiction of a child between 12 and 18 years old in a state of nudity when the offender is less than 19 years old. Aggravated transmission occurs when the transmission is made to harass, embarrass, intimidate, defame, or otherwise inflict emotional, psychological, or physical harm; for pecuniary or tangible gain; or with intent to exhibit or transmit the depiction to more than one person.

The bill also creates the crime of unlawful possession of a visual depiction of a child, defined as the knowing possession of a visual depiction of a child between 12 and 16 years old in a state of nudity, if the possessor is less than 19 years old and received the depiction directly and exclusively from the subject of the depiction. A defense exists when the recipient did not solicit the depiction, did not transmit or show the depiction, and made efforts to delete the depiction. The crime does not apply to instances where the possessor is the child displayed in the depiction.

The bill specifies these crimes are not included in the definition of sexual exploitation of a child and persons convicted or adjudicated under these crimes shall not be required to register under the Kansas Offender Registration Act.

The bill amends the crime of breach of privacy to include disseminating or permitting the dissemination of an image of another identifiable person 18 years old or older who is nude or engaged in sexual activity and under circumstances in which the other person had a reasonable expectation of privacy, with the intent to harass, threaten, or intimidate the other person, and the other person did not consent to its dissemination. Further, the bill amends the crime of blackmail to include disseminating any videotape, photograph, film, or image obtained in violation of these new provisions, which is a level 4, person felony.

Disclosure of Affidavits or Sworn Testimony Supporting Warrants

HB 2545 makes affidavits or sworn testimony disclosed pursuant to existing law part of the court record and accessible to the public. Affidavits or sworn testimony ordered sealed and not subject to public disclosure are part of the court record not accessible to the public. Requests for disclosure of the affidavits or sworn testimony will become part of the court record and accessible to the public, regardless of whether the affidavits and sworn testimony are disclosed or sealed.

The bill also requires prosecutors to notify victims of an alleged crime resulting in the issuance of the warrant of a request for disclosure. The bill clarifies the existing justification for redacting or sealing affidavits or sworn testimony that jeopardizes the safety or well-being of a victim or other party includes the physical, mental, or emotional safety of such person. Further, the bill allows a magistrate to redact affidavits and sworn testimony to prevent disclosure of information that constitutes a clearly unwarranted invasion of personal privacy.



ECONOMIC DEVELOPMENT

Development of Contaminated Property

House Sub. for SB 227 establishes the Contaminated Property Redevelopment Act, which allows a purchaser of real property acquired after July 1, 2016, to be released from environmental liability for pre-existing contamination under certain conditions. The Secretary of Health and Environment will administer the Contaminated Property Redevelopment Fund, which will receive moneys from fees, federal programs, gifts, grants, and other sources of funding and will be used for program administration and grants and loans to municipalities for contamination projects.

Sale of the KBA; Revisions to STAR Bonds

HB 2632 authorizes the sale of the Kansas Bioscience Authority (KBA), which is contingent upon the prior approval of the State Finance Council. The bill also revises provisions of the Sales Tax

and Revenue (STAR) Financing Act pertaining to the annexation of area into a STAR Bond district and pledges for future financial support from the State. The bill allows the Secretary of Commerce to pledge a portion of state sales and use tax revenues to a STAR Bond district.



Freedom from Unsafe Restraint and Seclusion Act

House Sub. for SB 193 amends the Freedom from Unsafe Restraint and Seclusion Act. Among the changes, the bill prohibits use of physical restraint on a student known to have a medical condition that could place the student in mental or physical danger if used. An exception exists when not subjecting the student to an emergency safety intervention (ESI), defined as the use of seclusion or physical restraint, would result in significant physical harm to the student or others. The written statement from the student's licensed health care provider must include the student's diagnosis, reasons an ESI would put the student in mental or physical danger, and alternatives to the use of ESIs.

If a school is aware a law enforcement officer or school resource officer has used seclusion, physical restraint, or mechanical restraint on a student, the school must notify the parent the same day; however, the school need not provide written documentation to a parent or report the same to the State Department of Education. Campus police officers and school resource officers are exempt from the requirements of the Act when engaged in an activity with a legitimate law enforcement purpose.

The bill also replaces meetings required after the third ESI in a school year with provisions that allow parents to request a meeting after an ESI and amends provisions specific to meetings involving students with a Section 504 Plan, with an individual education plan (IEP) placed in a private school by a parent, and who have neither an IEP nor a Section 504 Plan.

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Jason Flatt Act; Language Assessment; Capital Improvement State Aid

<u>Sub. for SB 323</u> enacts the Jason Flatt Act, establishes a language assessment program coordinated by the Kansas Commission for the Deaf and Hard of Hearing (KCDHH), and amends the capital improvement state aid formula.

The Jason Flatt Act. The Act requires each school district's board of education to provide suicide awareness and prevention programming to school staff and notify parents of the availability of training materials provided under such programming. The programming must include one hour of training each calendar year based on programs approved by the State Board of Education (Board), which could be satisfied through independent self-review of suicide prevention training materials, and building crisis plans for each school building, including steps for recognizing suicide ideation, appropriate intervention methods, and a crisis recovery plan.

Language Assessment Program. The purpose of the program coordinated by the KCDHH is to assess, monitor, and track language developmental milestones of children who are deaf or hard of hearing from birth to age eight. On and after July 1, 2018, an annual language assessment must be given to each child who is deaf or hard of hearing. The bill creates a 16-member advisory committee within the KCDHH to develop specific action plans and proposed rules and regulations necessary to fully implement the program by January 31, 2018, and will sunset July 1, 2018.

Capital Improvement State Aid. The bill caps the total amount of capital improvement state aid available for school districts' general obligation bonds approved at an election held on or after July 1, 2016. For such bonds, the cap could not exceed the six-year average of capital improvement state aid calculated by the Board using the average of the total amount of capital improvement state aid spent per year in the immediately preceding six fiscal years.

The bill instructs the Board to use the following priorities (from highest to lowest) when allocating capital improvement state aid: safety and disability access to the current facility; enrollment growth and imminent overcrowding; impact on delivery of educational services; and energy usage and other operational

inefficiencies. The bill also instructs the Board to give higher priority to school districts with a lower assessed valuation per pupil compared to other districts who are to receive capital improvement state aid. The Board must approve the amount of capital improvement state aid a district could expect to receive before the district holds a bond election. Additionally, at the start of the 2017 Legislative Session, and each year thereafter, the Board must provide information to the Legislature on school district elections held on or after July 1, 2016, and the approved amount of capital improvement state aid.

Postsecondary Changes

HB 2622 amends the law concerning higher education. The bill requires the Kansas Board of Regents (Board) publish a degree prospectus for each undergraduate degree program offered including a description of the degree; the average time and cost to obtain the degree; employment statistics, including median wages, of recent graduates from such degree program; and the number of years required to fully recoup the degree investment incurred. The Board and each postsecondary institution must make the degree prospectus information available on their official websites. State educational institutions and municipal universities must provide the information for school year 2016-17 and all years thereafter, and community colleges, technical colleges, and institutes of technology, for school year 2017-18 and all years thereafter.

The bill requires the Board to adopt a policy, on or before January 1, 2017, requiring state educational institutions to award appropriate credit hours to students who have passed a CLEP [College Level Examination Program] exam. Commencing July 1, 2017, each state educational institution must award credit hours to enrolled students who have passed a CLEP exam in accordance with such policy.

The bill also amends fees charged by the Board and funding of career technical education performance-based incentives.

K-12 Education Funding

<u>Senate Sub. for HB 2655</u> makes appropriations for K-12 education, alters statutory formulas for Supplemental General State Aid and Capital Outlay State Aid, amends law related to the

School District Extraordinary Need Fund (ENF) and provides for School District Equalization State Aid.

The bill replaces the amount of Supplemental General State Aid provided by 2015 House Sub. for SB 7 (SB 7) with an amount based on a new formula, which uses a portion of the Capital Outlay State Aid formula in effect prior to the enactment of SB 7 to calculate the equalization factor. The equalization factor is multiplied by the school district's local option budget to determine the district's Supplemental General State Aid.

The bill also reinstates the Capital Outlay State Aid formula in effect prior to the enactment of SB 7 and moves the authority to review and decide upon applications for ENF funds from the State Finance Council to the State Board of Education, while adding school finance equity as a factor for the Board to consider in evaluating such applications.

Finally, the bill provides funds to school districts if the bill's changes to Supplemental General State Aid or Capital Outlay State Aid result in the school districts being entitled to less state aid than under prior law.

[For more information on K-12 appropriations, see the <u>State</u> <u>Finance</u> Section.]



FINANCIAL INSTITUTIONS & INSURANCE

PBMs and MAC Pricing

<u>Sub. for SB 103</u> adds requirements on contracts between pharmacies and pharmacy benefits managers (PBMs) by establishing definitions and criteria for the placement of certain drugs on a maximum allowable cost (MAC) list; "MAC" is the maximum amount a PBM will reimburse a pharmacy for the cost of a generic drug. Among the criteria, a PBM must provide the sources utilized to determine the MAC price, review and update its list every seven business days to ensure dispensing fees are not included in the calculation of MAC, and establish an appeals process for network pharmacies.

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Savings Promotion Programs

SB 390, among other things, allows banks, credit unions, and other specified financial institutions to conduct savings promotion programs. The bill outlines the requirements and stipulations for these promotions and authorizes the Bank Commissioner and the Credit Union Administrator to collaborate and promulgate rules and regulations by July 1, 2017.

Motor Vehicle Liability Policy Limit Increase

HB 2446, among other things, amends the Kansas Automobile Injury Reparations Act to increase the minimum motor vehicle liability insurance policy limit for property damage from not less than \$10,000 to not less than \$25,000 for policies issued or renewed on or after January 1, 2017. The bill also provides for the study of motor vehicle liability limits beginning with the 2026 Legislative Interim and at least every ten years thereafter to determine if the limits should be adjusted. [Payment of insurance policy proceeds by cities and counties contained in HB 2446 are discussed in the Local Government section.]

Exclusive Provider Organization Insurance Product

HB 2454 permits a health carrier licensed to offer accident and sickness insurance in Kansas to offer an insurance product that requires some or all of the health care services to be rendered by participating providers, but requires emergency services to be covered even if not delivered by a participating provider (commonly referred to as an exclusive provider organization [EPO] product). The bill also allows an EPO policy to include a gatekeeper requirement and outlines cost-sharing requirements.



Kansas Tanning Facilities Act

<u>HB 2456</u>, among other things, prohibits a tanning facility from providing access to a tanning device to an individual less than 18 years old and authorizes the Board of Cosmetology to impose fines up to \$250 against a tanning facility for each violation.

Health Care Professions

<u>HB 2615</u>, among other things, amends law regarding charitable healthcare providers, the Acupuncture Practice Act and the Physical Therapy Practice Act, the Interstate Medical Licensure Compact, and the Independent Practice of Midwifery Act.

Charitable Healthcare Providers. The bill allows charitable healthcare providers and dentists to fulfill one hour of continuing education credit for performance of two hours of gratuitous service to medically indigent persons.

The Acupuncture Practice Act and the Physical Therapy Practice Act. The bill creates the Acupuncture Practice Act, provides for the licensure of individuals by the Board of Healing Arts, and exempts licensed physical therapists from the Acupuncture Practice Act when performing dry needling, trigger point therapy, or services specifically authorized under the Physical Therapy Practice Act. The bill also amends the Physical Therapy Practice Act to include the practice of dry needling within the scope of practice for licensed physical therapists, defines dry needling, and exempts licensed acupuncturists from the Physical Therapy Practice Act.

Medical Licensure Compact. The bill allows Kansas to join the Interstate Medical Licensure Compact, which is governed by the Interstate Medical Licensure Compact Commission. The Commission has the authority to develop rules to implement the Compact's provisions.

Independent Practice of Midwifery Act. The bill creates the Independent Practice of Midwifery Act. Effective January 1, 2017, this act will allow certified nurse-midwives to practice without a collaborative practice agreement with a person licensed to practice medicine and surgery within a limited scope practice as set forth in the bill, if they meet the requirements set forth in the Midwifery Act and hold a license from the State Board of Nursing and State Board of Healing Arts.



Judicial Vacancies

House Sub. for SB 128 amends law related to judicial vacancies, among other changes. In selecting the lawyer members of the Supreme Court Nominating Commission (SCNC) and district judicial nominating commissions, the bill requires attorneys and applicants for admission to practice law to provide certain identifying information to the Clerk of the Supreme Court (Clerk), who must maintain a roster of licensed attorneys. Prior to selection, the Clerk must transmit a certified copy of the roster of Kansas licensed attorneys to the Secretary of State. After the election, the Clerk must preserve qualification certificates, create a list of the names and residential addresses of all persons who returned a ballot with a signed certificate for an election, and transmit a certified copy of this list to the Secretary. The identifying information and unique voter identification numbers assigned by the Secretary; dates of licensure to practice law in Kansas of all persons on the certified rosters; the qualification certificates; and the lists of persons returning a ballot are subject to a request under the Kansas Open Records Act.

The bill deems the SCNC and district judicial nominating commissions to be public bodies subject to the Kansas Open Meetings Act and prohibits them from recessing for any closed or executive meeting except for the purpose of discussing sensitive financial information contained in the personal financial records or official background check of a judicial nomination candidate.

The bill requires the SCNC to nominate three persons to fill a vacancy in the Supreme Court and certify the names of the nominees to the Governor. For district judicial nominating commissions, the bill changes the number of nominees for each vacancy from two or three to three, four, or five and amends the section governing what occurs if there are not at least two qualified attorneys willing to accept a nomination, to change two to three.

The bill also requires the Governor (or the Chief Justice, if making an appointment because the Governor failed to make an appointment) to make public the name and city of residence of each applicant to the Court of Appeals.

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Exercise of Religious Beliefs by Student Associations

SB 175 prohibits a postsecondary educational institution from taking any action or enforcing any policy that would deny a religious student association any benefit available to any other student association or discriminate against a religious student association related to such benefits, due to the association's requirement that leaders or members of the association adhere to or comply with the association's sincerely held religious beliefs, comply with the association's sincere religious standards of conduct, or be committed to furthering the association's religious missions. The bill creates a cause of action for a student or religious student association aggrieved by a violation of this provision.

Public Speech Protection Act; Habeas Corpus; Protection from Stalking Act; Venue—Small Claims

SB 319 amends law related to civil procedure. The bill expands the definition of "harassment" within the Protection from Stalking Act to include any course of conduct carried out through the use of an unmanned aerial system, commonly known as a drone, over or near a dwelling, occupied vehicle, or other place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

The bill also enacts the Public Speech Protection Act, which allows a party to bring a motion to strike any claim based on, related to, or in response to a party's exercise of the right of free speech, right to petition, or right of association. The party bringing the motion to strike must make a *prima facie* case showing the claim concerns a party's exercise of such rights. The bill requires a hearing on the motion to be held within 30 days of service of the motion. The bill specifies certain actions and claims to which this act does not apply.

The bill also amends law related to findings of manifest injustice in the context of motions to vacate, set aside, or correct a sentence and updates the statute governing small claims venue.

Duties and Powers of Attorney General—Abuse, Neglect, and Exploitation of Persons

SB 408 amends law relating to the abuse, neglect, and exploitation of persons and the duties and powers of the Attorney General.

The bill mandates child abuse or neglect occurring in an institution operated by the Kansas Department for Aging and Disability Services (KDADS) be reported to an appropriate law enforcement agency, rather than to the Attorney General.

The bill mandates reports of child abuse or neglect occurring in an institution operated by the Kansas Department of Corrections (KDOC) be made to the Secretary of Corrections or to the Attorney General and mandates suspected child abuse or neglect in such institution be investigated by the Attorney General or the Secretary. Investigations of child abuse or neglect by KDADS and the Department for Children and Families (DCF) employees are to be handled by an appropriate law enforcement agency.

The bill specifies the first priority of the Abuse, Neglect, and Exploitation of Persons Unit within the Office of the Attorney General is to prevent, detect, and investigate abuse, neglect, or exploitation of vulnerable adults, such as senior citizens and the disabled. The bill also grants the Unit certain discretionary authority related to preventing, investigating, and prosecuting abuse, neglect, or exploitation, including coordination with other agencies and divisions.

Sureties; Bail Enforcement Agents

Senate Sub. for HB 2056 amends law relating to sureties and bail enforcement agents. Among other provisions, it requires compensated sureties to submit an application to the chief judge of the judicial district where the surety seeks to act as a surety and specifies what information must be included in the application. Each judicial district can require additional information and set property requirements. Further, chief judges can suspend or terminate surety authorization at any time, as the bill allows. An authorized property surety is allowed outstanding appearance bonds of no more than 15 times the valuation of the property identified in the surety's application, and such surety is prohibited from writing a single appearance bond exceeding 35 percent of the total valuation of such property. Beginning January 1, 2017, the bill requires compensated sureties to obtain at least 8 hours of

continuing education credits every 12 months and allows the chief judge to provide a list of topics to be covered for these classes. The bill outlines requirements for such classes and certification of compliance by the Kansas Bail Agents Association.

The bill declares it unlawful for any person to engage in the business of a bail enforcement agent without a license, gives the Attorney General exclusive jurisdiction and control of licensing and regulating bail enforcement agents, and sets license application requirements, including a state and national criminal history records check. The Attorney General is allowed to deny, censure, limit, condition, suspend, or revoke a license for various reasons. Licenses expire every two years and may be renewed at that time. Fees authorized by the bill and received under these provisions are deposited in the Bail Enforcement Agents Fee Fund, created by the bill. Unlicensed conduct as a bail enforcement agent is made an unconscionable act under the Kansas Consumer Protection Act.

Kansas General Corporations Code

Senate Sub. for HB 2112 substantially amends the law governing corporations. Among other changes, the bill updates references to the Business Entity Standard Treatment Act; adds provisions specific to nonstock corporations; amends statutes governing merger and consolidation of various business entities; adds an exception for banks to the requirements that the name of certain business entities be distinguishable from the name of other entities and contain one of a list of specified words; and revises requirements for a foreign entity to do business in Kansas.

Community Parenting Release; Eyewitness Identification; Grand Jury Instructions

<u>Sub. for HB 2151</u> creates law relating to community parenting release and eyewitness identification and amends law relating to grand juries.

The bill authorizes the Secretary of Corrections to transfer certain low to moderate-risk offenders to house arrest pursuant to a community parenting release if the conditions listed in the bill are met and the Secretary determines the offender's placement in the program is in the child's best interests. The Secretary can return an offender to a correctional facility to serve the remaining sentence if the offender fails to comply with release requirements.

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Further, within two years of the bill's effective date, all Kansas law enforcement agencies are required to adopt a detailed, written policy regarding eyewitness identification of persons during a criminal investigation and to collaborate with district and county attorneys in adopting procedures for implementing such policies.

Finally, the bill allows the person who filed the petition for a citizen grand jury and that person's attorney to witness instructions given to the grand jury, after it is summoned but prior to deliberations, regarding its conduct and deliberations.

Consumer Protection—Identity Theft; Identity Fraud; Door-to-Door Sales; New Crime

<u>HB 2460</u> creates the crime of violation of a consumer protection order, defined as engaging in door-to-door sales while prohibited from door-to-door sales by an order or judgment entered under the Kansas Consumer Protection Act (KCPA). The crime is a severity level 9, person felony, and the criminal liability imposed does not relieve a person of civil liability for violating a consumer protection order.

The bill also grants the Attorney General authority, within the limits of available resources, to assist victims of identity theft, identity fraud, and related crimes in pursuing various remedies.

The bill clarifies the duties of holders of personal information to protect such information from unauthorized access and destroy records containing such information. Violation of these provisions shall be an unconscionable act or practice under the KCPA, but the bill provides an affirmative defense to violations under certain conditions. The Attorney General is granted exclusive authority to enforce these provisions.

LOCAL GOVERNMENT

Municipal Audits

<u>SB 247</u>, among other changes, amends thresholds that trigger certain municipal accounting requirements, increasing from \$275,000 to \$500,000 the dollar amount above which an annual audit is triggered.

Price Control of Real Estate, Labor Work Schedules, Nutrition Labeling, and Property Inspections

SB 366 prohibits cities, counties, and other political subdivisions from enacting or enforcing policies pertaining to price control of real estate, labor work schedules, and nutrition labeling, with some exceptions. The bill also restricts cities and counties from administering residential rental property inspections if certain conditions are not met.

Insurance Policy Proceeds

<u>HB 2446</u> amends the Insurance Code to permit cities and counties to request payment of insurance proceeds for covered claims and updates the law governing creation of a lien in favor of such proceeds. The bill also increases, from 30 to 45 days, the time specified for release of the insured's proceeds and any accrued interest.

[Minimum motor vehicle liability insurance limits contained in HB 2446 are discussed in the <u>Financial Institutions & Insurance</u> section.]



OPEN RECORDS

Public Records; Law Enforcement Recordings; Charitable Gaming Information

<u>Sub. for SB 22</u> amends law related to public records and the Kansas Open Records Act (KORA). The bill brings audio and video recordings made by law enforcement using a body camera or vehicle camera within the criminal investigation record exception to KORA. In addition to existing KORA disclosures applicable to such recordings, the bill allows certain persons, including the subject of a recording, to request to listen to or view such recordings.

The bill amends the KORA definition of "public record" to clarify the specified recorded information falls under the definition regardless of the location of the information and add any recorded information made, maintained, kept by, or in the possession of any officer or employee of a public agency, pursuant to the officer's or employee's official duties, and that is related to the functions, activities, programs, or operations of any public agency. The definition of "private person" is amended to exclude an officer or employee of a public agency acting pursuant to the officer's or employee's official duties.

The bill updates a statute allowing the Secretary of Revenue or designee to release or publish certain information obtained in bingo and charitable gaming license applications.

The bill also continues in existence, until July 1, 2021, various KORA exceptions.



Law Enforcement Assistance from Foreign Jurisdictions

HB 2549 allows the chief law enforcement executive, or designee, of any law enforcement agency to request assistance from a law enforcement agency located outside Kansas, but within the U.S. The bill does not limit existing authority of law enforcement officers or agencies to enter agreements with bordering states' law enforcement entities to enforce controlled substances laws or prevent, detect, or investigate terrorist activity. The bill requires law enforcement officers or agencies outside of Kansas to make arrests and use force in accordance with Kansas law.

KS-CPOST, KHP, and LETC Funding from Surcharges and Fees

HB 2696 increases from \$20.00 to \$22.50 the fee assessed in municipal court cases where there is a finding of guilt or a plea of guilty, a plea of no contest, forfeiture of bond, or a diversion. Additionally, the bill increases from \$2.50 to \$5.00 the fee going to the Kansas Commission on Peace Officers' Standards and Training (KS-CPOST) Fund. The bill also adds two surcharges to vehicle registration fees: a \$2.00 Kansas Highway Patrol (KHP) staffing and training surcharge and a \$1.25 Law Enforcement Training Center (LETC) surcharge.

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RETIREMENT

Working After Retirement

House Sub. for SB 168 revises Kansas Public Employee Retirement System (KPERS) law pertaining to working after retirement. The bill extends the current exceptions to the earning cap for retired licensed school professionals; creates procedures and penalties to discourage prearranged employment agreements; repeals the authority of the Joint Committee on Pensions, Investments and Benefits; extends the exception period for retired individuals; and increases the earnings cap for retirees under the Kansas Police and Firemen's Retirement System.



Public Assistance Eligibility; Step Therapy in Medicaid

House Sub. for SB 402 amends public assistance eligibility. reducing the Temporary Assistance for Needy Families (TANF) benefit limit from 36 to 24 months (with a possible 12-month hardship extension) and the lifetime limit for TANF cash assistance diversion payments from 42 to 18 months, and changes work participation requirements and exemptions for several public assistance programs. The bill also allows for the use of step therapy in Medicaid with certain patient protections, provides an expedited appeal process on a physician request for a step therapy override, and requires specific review and approval of step therapy policies or rules and regulations prior to implementation.



Title X Funding for Family Planning Services

SB 248 prescribes the priority for expenditures and grants for family planning services financed with federal Title X funds. The bill specifies the Kansas Department of Health and Environment, Division of Public Health, shall make any expenditure or grant

departments and health clinics and, second, if funds remain, to non-public entities that are hospitals or federally qualified health centers that provide comprehensive primary and preventive care in addition to family planning services. The bill codifies in statute a proviso that has been included in appropriations bills since 2011.

Judicial Branch Non-Severability Repeal and Court Docket Fees

House Sub. for SB 255 clarifies the status of certain funds subsequent to the Court's holding in Solomon that the previous Judicial Branch appropriations bills were unconstitutional. Other changes made subsequent to the repeal of the non-severability clause were prior established law or a technical correction.

HB 2449 replaces the non-severability provision in 2015 HB 2005 with a severability clause stating if any provision of HB 2005 is held invalid or unconstitutional, the remaining provisions of HB 2005 shall remain in effect.

Nursing Facility Quality Care Assessment

Senate Sub. for HB 2365 increases the maximum annual amount of the quality care assessment from \$1,950 to \$4,908 per licensed bed. The bill also extends the expiration date of the assessment from July 1, 2016 to July 1, 2020. The bill requires the implementation of the statutory three-year rolling average to determine nursing facilities' reimbursement rates, notwithstanding the provisions of the 2015 appropriations bill for FY 2017. The bill also revises the membership and reporting requirements of the Quality Care Improvement Panel.

State Budget

House Sub. for SB 161, House Sub. for SB 249, Senate Sub. for HB 2655, and Sub. for HB 2001 (Special Session) include funding for claims against the state; Fiscal Year (FY) 2016, FY 2017, and FY 2018 expenditures for most state agencies; and FY 2016 and FY 2017 capital improvements for selected state agencies.

first to public entities, including state, county, and local health Senate Sub. for HB 2655 makes appropriations for K-12 education, alters statutory formulas for providing Supplemental General State Aid and Capital Outlay State Aid, amends law related to the School District Extraordinary Need Fund (ENF), and provides for School District Equalization State Aid.

> For FY 2017 (school year 2016-17), the bill appropriates \$367,582,721 for Supplemental General State Aid, and \$61,792,947 for School District Equalization State Aid. The bill limits expenditures for Capital Outlay State Aid to \$50,780,296. The bill also changes the expenditure limitation for the ENF from \$17,521,425 to \$15,167,962, and lapses \$477,802,500 from the block grants to unified school districts. The bill also reimposes a limit on maximum annual debt service and sets that limit at 19 percent of projected State Highway Fund revenues.

> Senate Sub. for HB 2001 includes changes made regarding K-12 education funding during the 2016 Special Session. [For more information on Senate Sub. for HB 2655, see the Education Section. 7

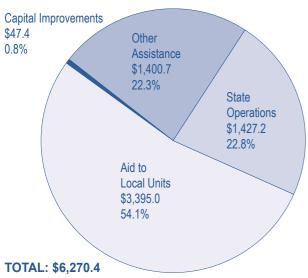
> FY 2016. The approved FY 2016 budget totals \$15.5 billion, including \$6.2 billion from the State General Fund (SGF). The approved budget is a decrease of \$3.4 million, or 0.02 percent, from all funding sources, and \$3.2 million, or 0.05 percent, below the Governor's recommendation. Full-time equivalent (FTE) positions remain the same as the Governor's recommendation at 36,565.3. The approved budget provides for a SGF ending balance of \$21.5 million, or 0.3 percent, of SGF expenditures.

> **FY 2017**. The approved FY 2017 budget totals \$15.7 billion, including \$6.3 billion from the SGF. The approved budget is a decrease of \$1.8 million, or less than 0.1 percent, from all funding sources, and \$35.6 million, or 0.5 percent, from the SGF below the Governor's recommendation. FTE positions increase by 8.0 FTE positions above the Governor's recommendation. In addition, the approved budget reduces SGF receipts by \$21.5 million for FY 2017. The approved budget provides for a SGF ending balance of \$77.0 million, or 1.0 percent, of SGF expenditures.

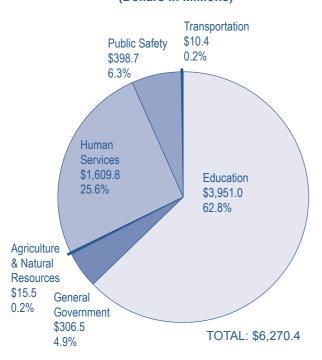
> The following pie charts reflect approved SGF expenditures for major purpose of expenditures and by function of government for FY 2017.

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FY 2017 Approved State General Fund Budget by Major Purpose (Dollars in Millions)



FY 2017 Approved State General Fund Budget by Function of Government (Dollars in Millions)



* NOTE: Total state expenditures do not reflect by function \$6.5 million in projected savings due to the implementation of recommendations contained in the Kansas Efficiency Study and \$15.0 million in statewide information technology savings.



Tribal Compacts

SB 484 and SB 485 approve and adopt by reference as state law the compacts relating to cigarette and tobacco sales, taxation, and escrow collection between the Prairie Band Potawatomi Nation and the State of Kansas (SB 484), and between the Iowa Tribe of Kansas and Nebraska and the State of Kansas (SB 485), both printed in the Journal of the House and the Journal of the Senate on March 2, 2016. The bills require the Secretary of State to publish the Compacts in the *Kansas Register*.

Student Privacy and Title IX Guidance

SR 1798 responds to a guidance letter issued by the U.S. Departments of Justice and Education stating Title IX prohibits discrimination based on gender identity. Among other things, the resolution expresses the Kansas Senate's opposition to that determination; supports the right of states and local school boards to direct education policy; encourages the U.S. Congress to do everything in its power to challenge the guidance; and expresses gratitude and support for the Kansas Attorney General joining litigation challenging the guidance.

Performance Budgeting and Reserve Funds; Key Deposit Funds

HB 2739 directs the Secretary of Administration, in consultation with the Division of the Budget, the Office of Revisor of Statutes, and the Legislative Research Department, to develop a revised budget process. The agencies must prepare a program service inventory by January 9, 2017, including programs' function, purpose, history, and objectives; their statutory authority; whether the programs are mandatory or permissive; any state matching or maintenance of effort requirements for federal funds; prioritization of all programs and subprograms; and the consequence of not funding each program or subprogram. The bill also requires use of common accounting procedures from budget development through actual expenditures by fund by January 6, 2018, and a performance-based budgeting system using outcome measures to evaluate program effectiveness by January 14, 2019.

The bill also establishes the Budget Stabilization Fund as of July 1, 2017, and prohibits expenditures from the Fund without legislative or State Finance Council approval. The bill further directs the Legislative Budget Committee to meet for up to ten days between the 2016 and 2017 Legislative Sessions to study and review policies concerning transfers to and expenditures from the Fund.

Constitutional Right to Hunt

<u>HCR 5008</u> proposes a state constitutional amendment for consideration at the November 2016 election. If approved by a majority of Kansas voters, the amendment would establish a constitutional right to hunt, fish, and trap wildlife in the state.

Terrorist Detainees

HCR 5024 urges the President of the United States to declare the detention facility at Naval Station Guantanamo Bay will remain and terrorist detainees will not be transferred to Fort Leavenworth.



Income, Sales, and E-Cigarette Taxes

House Sub. for SB 149 amends law related to income, sales, and electronic cigarette taxes. The bill extends the sunset for the angel investor tax credit program by 5 years to tax year 2022. The bill also creates a new individual income tax checkoff program to enable taxpayers to donate to local school districts. Further, the bill provides temporary sales tax exemptions for the Gove County Healthcare Endowment Foundation to build an airport in Quinter and for all sales during calendar year 2016 to repair or replace any fence damaged or destroyed by fire occurring during 2016. Refunds would be provided under certain circumstances for such purchases made prior to the effective date of the legislation. Finally, the bill delays the effective date of a new tax on electronic cigarettes from July 1, 2016, to January 1, 2017.

Property Tax Lid—Cities and Counties

<u>Senate Sub. for HB 2088</u> accelerates from January 1, 2018, to January 1, 2017, the effective date of a tax lid for cities

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and counties originally approved in 2015. A number of exemptions enacted in 2015 also are modified. Under the tax lid provisions, increases in property tax dollars levied beyond the rate of inflation generally require voter approval, except certain property tax increases are exempt from the computation involved to determine whether an election is required. New clarifying language stipulates a five-year rolling average will be utilized to measure inflation, and under no circumstances could a figure of less than zero be utilized.

Required elections could occur as special elections, as part of regularly scheduled elections held in August or November of election years, or as elections held pursuant to the provisions of the Mail Ballot Election Act. Under the legislation, cities and counties are responsible for all costs associated with conducting tax-lid elections.



Vehicle Sizes

Sub. for SB 99 increases vehicle length limits for stingersteered automobile transporters and certain combinations used to transport custom harvester equipment. It also increases the operating weight limits for vehicles operated by engines fueled primarily by natural gas by the net difference in the weights of natural gas versus diesel systems, to a maximum gross vehicle weight of 82,000 pounds. The changes reflect new federal limits.

Unmanned Aircraft Systems

House Sub. for SB 249, among other things, directs the Director of Unmanned Aircraft Systems (UAS) at the Department of Transportation to undertake specified activities related to UAS research and development in Kansas, including working with state educational institutions, local governments, and the UAS industry, and to study the use of UAS for inspection and surveillance and report to the Legislature on a UAS strategic plan.

Toll Payment Enforcement

SB 373 requires the registered owner of a vehicle driven on a project of the Kansas Turnpike Authority (KTA) to pay all tolls associated with that vehicle's use. Starting January 1, 2018, the bill authorizes the Director of the KTA (the Secretary of Transportation) to instruct the Division of Vehicles to require payment of tolls or otherwise refuse to register the vehicle or renew the vehicle's registration if the unpaid tolls exceed \$100.00. The county treasurer will retain 15 percent of the moneys that treasurer collects. The bill requires the KTA to attempt to contact the registered owner at least three times before a registration hold. Notices to the owner also may include a toll-evasion civil penalty, administrative fee, and costs for each instance of toll evasion. The registered owner may contest any notice to the KTA and may appeal an administrative decision.



UTILITIES & TELECOMMUNICATIONS

Clean Power Plan; KETA

SB 318 suspends all state agency activities in preparation of a state plan pursuant to the U.S. Environmental Protection Agency's Clean Power Plan until the U.S. Supreme Court lifts the stay on implementation of the Clean Power Plan. The bill also abolishes the Kansas Electric Transmission Authority (KETA).

Siting of Wireless Telecommunications Infrastructure; Permit Application Process; Kansas Universal Service Fund

Senate Sub. for HB 2131 creates new law concerning the siting of wireless telecommunications infrastructure and the permit application process between wireless service providers and municipalities. In addition, the bill amends existing law regarding rural telephone companies and the Kansas Universal Service Fund (KUSF). The bill amends how a rural telephone company changes its local service rates, how KUSF support for rate of return carriers is determined, and the regulation of rural telephone companies that use VoIP or IP-enabled services.



In-State Tuition Reinstatement

HB 2567 reinstates eligibility for resident tuition rates at postsecondary institutions previously granted by the Legislature to certain military veterans and their families, which was inadvertently eliminated in 2015 legislation that brought Kansas into compliance with the federal Choice Act.

2016 Legislative Session At-A-G	lanc	e					
Bill Information							
Senate bills carried over from the 2015 Sess	ion .	238					
Senate bills introduced in the 2016 Session.		207					
TOTAL Bills		445					
House bills carried over from the 2015 Sessi	on .	335					
House bills introduced in the 2016 Session.		307					
TOTAL Bills		642					
Bills considered in 2016 Session that becam	e law	v:					
House Bills		53					
Senate Bills		59					
Percentage of Bills that became law:		10.3%					
Days in Session 73							
Special Session							
House Bills and Concurrent Resolutions4							
Senate Bills and Concurrent Resolutions		7					
Fiscal Information for FY 2017							
(Dollars in Millions)							
· · ·							
Estimated State General Fund Revenue							
Income Taxes	\$	2,813.0					
Excise Taxes		3,040.2					
All Other		472.8					
Total	\$	6,326.0					
Estimated State Budget							
State General Fund	¢.	C 200 4					
All Other	\$	6,280.4					
	Ф	9,439.4					
Total	\$	15,719.8					
2015 Population Estimate		2,911,641					

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Kansas Legislative Research Department 2016 Highlights of Legislation - electronic edition

Highlights of What's Inside:

- June 23-24 Special Session Update
- Juvenile Justice System Reforms—Implementation and Oversight
- K-12 Education Funding (Regular, Special Sessions)
- Property Tax Lid—Cities and Counties
- Public Assistance Eligibility and Step Therapy in Medicaid
- State Budget Update—FY 2016 and FY 2017

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House Sub. for SB 168	9	SB 418	3	HB 2502	
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SB 247	8	Sub. for HB 2001 (Special Session)	1	HB 2615	
SB 248	9	Sub. for HB 2001 (Budget)	9	HB 2622	
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House Sub. for SB 249 (Transportation)	11	Senate Sub. for HB 2088	10	Senate Sub. for HB 2655 (Education)	
House Sub. for SB 255	9	Senate Sub. for HB 2112	7	Senate Sub. for HB 2655 (State Budget)	
SB 318	11	Senate Sub. for HB 2131	11	HB 2696	
SB 319	7	Sub. for HB 2151	7	HB 2739	1
Sub. for SB 323	5	Senate Sub. for HB 2156	1	HCR 5008	1
SB 326	1	Senate Sub. for 2365	9	HCR 5024	1
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