

**SUPPLEMENT II TO
PRELIMINARY SUMMARY OF LEGISLATION
2019 KANSAS LEGISLATURE**

KLRD

*Providing objective research and fiscal
analysis for the Kansas Legislature*

This publication contains summaries of bills passed by the Legislature from May 1, 2019 through adjournment. Bills that have not yet been signed by the Governor are included.

The first Preliminary Summary containing summaries of major bills that were passed through the end of the legislative day on March 27, 2019, was distributed on April 1, 2019. An updated supplement to the first Preliminary Summary was distributed on April 12, 2019.

Highlights, a summary of major legislation in newsletter form, will be prepared and distributed electronically to legislators as soon as possible. *The Summary of Legislation*, which accounts for all bills passed by the 2019 Legislature, will be distributed at a later date.

These documents are available on the Kansas Legislative Research Department's website: <http://www.kslegislature.org/klrd> (under "Publications").

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Table of Contents

ABORTION	1
Reversal of Medication Abortions Using Mifepristone—Notice and Reporting Requirements, Civil and Criminal Penalties, and Civil Action; SB 67.....	1
CRIMES AND CRIMINAL MATTERS	5
Omnibus Crimes, Punishment, and Criminal Procedure Bill; SB 18.....	5
ECONOMIC DEVELOPMENT	11
Evaluation and Transparency of Economic Development Programs and Tax Incentives; Rural Housing Bond Maturity; HB 2223.....	11
HEALTH	14
Claire and Lola’s Law—Possession of Certain Cannabidiol Treatment Preparations, Actions and Proceedings Prohibited, Affirmative Defense; Grandfathering of Certain Podiatrists; SB 28.....	14
JUDICIARY	16
Judicial Branch Surcharges; Tribal Court Judgments; Bonding Requirements for Cruelty to Animals; SB 20.....	16
Kansas Consumer Protection Act; Scrap Metal Theft Reduction Act; HB 2248.....	16
LEGISLATURE	20
Reconciling Statute Amendments; HB 2203.....	20
PUBLIC SAFETY	21
Emergency Medical Services; SB 53.....	21
STATE FINANCES	23
State Budget—Appropriations; House Sub. for SB 25.....	23
STATE AND LOCAL GOVERNMENT	27
Attorney General; Crime Victims Compensation Division; Youth Suicide Prevention, VINE Coordinators; KOMA; KORA; Background Checks; Criminal Justice Reform Commission; Closed Case Task Force; HB 2290.....	27
TAXATION	38
Income and Sales Tax Provisions; HB 2033.....	38
Local County Sales Tax Authorizations; Creation of a New Sales Tax Exemption for Coins and Bullion; HB 2140.....	40
TRANSPORTATION AND MOTOR VEHICLES	42
Vehicle Lights; Stopping for On-track Equipment; Sun Screening Material; Operation of All-terrain Vehicles; Regulation of E-scooters; SB 63.....	42

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ABORTION

Reversal of Medication Abortions Using Mifepristone—Notice and Reporting Requirements, Civil and Criminal Penalties, and Civil Action; SB 67

SB 67 requires certain notifications be posted in facilities where medication abortions that use mifepristone are provided and be given by physicians providing such abortions. The bill provides relevant definitions and creates civil and criminal penalties for violating the notification requirements.

Definitions

The bill defines the following terms:

- “Medication abortion” to mean the use or prescription of any drug for the purpose of inducing an abortion;
- “Abortion” to mean the use or prescription of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy; and
- “Medical emergency” to mean a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the woman or for which a delay necessary to comply with the applicable statutory requirements will create serious risk of substantial and irreversible physical impairment of a major bodily function. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct that would result in her death or in substantial and irreversible physical impairment of a major bodily function.

Notification Requirements

The bill requires any private office, freestanding surgical outpatient clinic, hospital, or other facility or clinic where medication abortions that use mifepristone are provided to post a conspicuous sign that is clearly visible to patients, is printed with lettering that is legible and at least three-fourths of an inch boldfaced type, and reads as follows:

NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS THAT USE MIFEPRISTONE: Mifepristone, also known as RU-486 or mifeprex, alone is not always effective in ending a pregnancy. It may be possible to reverse its intended effect if the second pill or tablet has not been taken or administered. If you change your mind and wish to try to continue the pregnancy, you can get immediate help by accessing available resources.

The bill requires the notice include information about the Kansas Department of Health and Environment (KDHE) website, which is required to be maintained under the Woman's -Right-to-Know Act (KSA 65-6710), and other relevant telephone and Internet resources containing information on where the patient can obtain timely assistance to attempt to reverse the medication abortion. [Note: KDHE is required to publish and distribute certain informational materials, which are updated on an annual basis.]

Facilities

The bill requires any private office or freestanding surgical outpatient clinic where medication abortions that use mifepristone are provided to post the sign in each patient waiting room and patient consultation room used by patients for whom medication abortions are provided.

A hospital or other facility where medication abortions that use mifepristone are provided that is not a private office or freestanding surgical outpatient clinic are required to post the sign in each patient admission area used by patients for whom medication abortions that use mifepristone are provided.

Physician

The bill prohibits a physician from providing, inducing, or attempting to provide or induce a medication abortion that uses mifepristone without informing the woman, in writing as prescribed in the Woman's-Right-to-Know Act and by telephone or in person, at least 24 hours prior to the medication abortion, except in the case of a medical emergency, of the following:

- It may be possible to reverse the intended effects of a medication abortion that uses mifepristone, if the woman changes her mind, but that time is of the essence; and
- Information on reversing the effects of a medication abortion that uses mifepristone is available on KDHE's website as required by law (KSA 65-6710), and other relevant telephone and Internet resources containing information on where the patient may obtain timely assistance to attempt to reverse the medication abortion.

The bill requires, after a physician dispenses or provides an initial administration of mifepristone to a patient for the purposes of performing a medication abortion, the physician or an agent of the physician to provide a legible, written notice to the patient that includes the same information stated above.

The bill requires, when a medical emergency compels the performance of a medication abortion that uses mifepristone, the physician to inform the woman, prior to the medication abortion, if possible, of the medical indications supporting the physician's judgment an abortion is necessary to avert the woman's death or a 24-hour delay creates serious risk of substantial and irreversible impairment of a major bodily function, excluding psychological or emotional conditions.

KDHE Website

The bill requires, within 90 days after the effective date of the bill, KDHE cause to be published, in English and in each language that is the primary language of 2.0 percent of more of the state's population, in print and on the website required by law, comprehensible materials designed to inform women of the possibility of reversing the effects of a medication abortion that uses mifepristone and information on resources available to reverse the effects of a medication abortion that uses mifepristone. The website also includes other relevant telephone and Internet resources containing information on where the patient may obtain timely assistance to attempt to reverse the medication abortion.

Criminal Penalties

The bill provides that upon a first conviction of a violation of failing to provide notification as outlined in the bill, a person is guilty of a class A person misdemeanor and, upon second or subsequent conviction of such violation, a person is guilty of a severity level 10, person felony.

Civil Penalties

The bill requires KDHE to assess a fine of \$10,000 to any private office, freestanding surgical outpatient clinic, hospital, or other clinic or facility that fails to post the sign. Each day the required sign is not posted is a separate violation. KDHE is required to remit all moneys received from fines to the State Treasurer. The State Treasurer is required to deposit the entire amount of money remitted in the State Treasury to the credit of the State General Fund.

Civil Action

The bill allows the following individuals to bring a civil action against a physician who provided a medication abortion using mifepristone in violation of the provisions in the bill for actual damages, exemplary and punitive damages, and any other appropriate relief:

- A woman to whom such medication abortion has been provided;
- The father of the unborn child who was subject to such medication abortion; or
- Any grandparent of the unborn child who was subject to such medication abortion, if the woman was not 18 years of age or older at the time the medication abortion was performed or if the woman died as a result of the medication abortion.

The bill requires such civil action be commenced within two years after the later of:

- The date of the discovery of the violation; or
- The conclusion of a related criminal case.

A court is required to award reasonable attorney fees and costs to a prevailing plaintiff or a prevailing defendant upon a finding that the action was frivolous and brought in bad faith.

Anonymity

In any civil or criminal proceeding or action brought under the provisions of bill, the bill requires the court to rule whether the anonymity of any woman to whom a medication abortion has been provided, induced, or attempted to be provided or induced is to be preserved from public disclosure, if she does not give her consent to such disclosure. The bill requires the court, upon motion of a party or on its own accord, to make such a ruling and, upon determining the woman's anonymity is to be preserved, to issue orders to the parties, witnesses, and counsel and to direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. The bill requires each such order to be accompanied by specific written findings explaining why the anonymity of the woman is to be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman to whom a medication abortion has been provided, induced, or attempted to be provided or induced, any person, other than a public official, who brings an action under this section is required to do so under a pseudonym. The bill is not to be construed to conceal the identity of the plaintiff or witnesses from the defendant.

Severability Clause

The bill provides that if any provision of the bill, or any application thereof to any person or circumstance, is held invalid by court order, then such invalidity does not affect the remainder of the bill and any application thereof to any person or circumstance that may be given effect without such invalid provision or application, and to this end, the provisions of the bill are to be declared severable.

Reporting Requirements

The bill requires any person licensed by the State Board of Healing Arts or the Board of Nursing who prescribes or administers progesterone for the purpose of reversing a medication abortion to:

- Report to KDHE within 14 days of prescription or administration the person has prescribed or administered progesterone to a patient for such purpose;
- If the progesterone treatment fails to reverse the effects of the medication abortion, report to KDHE within 14 days of such failure; and
- If the woman to whom progesterone is prescribed or administered for the purpose of reversing a medication abortion successfully carries the pregnancy to term, report to KDHE the maternal and newborn health conditions at the time of birth within 14 days of the birth.

CRIMES AND CRIMINAL MATTERS

Omnibus Crimes, Punishment, and Criminal Procedure Bill; SB 18

SB 18 amends statutes regarding the crime of counterfeiting currency, access to presentence investigation reports, authority to enter into diversion agreements, out-of-state criminal history, appeals related to criminal cases, correction of illegal sentences, drug abuse treatment programs, probation violation sanctions, the penalties for the crimes of involuntary manslaughter and abuse of a child, a mitigating factor for sentencing when a victim is an aggressor or participant in the criminal conduct associated with a crime of conviction, and law enforcement notifications to domestic violence victims, as follows.

[*Note:* Although the bill itself takes effect upon publication in the *Kansas Register*, numerous individual provisions, as noted throughout, take effect July 1, 2019.]

Counterfeiting Currency

The bill amends the crime of counterfeiting currency to:

- Add the term “currency” to the first (making, forging, or altering) and second (distributing or possessing with the intent to distribute) means of committing the crime;
- Add the term “note” to the second means;
- Add the term “computer” and replace the phrase “produce any counterfeit” with “make, forge, or alter any” in the third means (possessing certain items with the intent to counterfeit);
- Remove the “intent to defraud” element currently applicable to all three means of committing the crime, add this intent to the first means, and add knowledge of this intent to the second means; and
- Remove the term “seized” and add the terms “notes” and “currency” to the penalty provisions.

These provisions take effect July 1, 2019.

Access to Presentence Investigation Reports

The bill amends the statute governing the presentence investigation report prepared in criminal cases to allow access to the report by community correctional services and any entity required to receive the information under the Interstate Compact for Adult Offender Supervision.

These provisions take effect July 1, 2019.

Attorney General's Authority to Enter into Diversion Agreements

The bill amends statutes relating to diversion in criminal cases to include the Attorney General within the definition of "district attorney," thereby specifically authorizing the Attorney General to enter into diversion agreements pursuant to these statutes; add a provision specifying any diversion costs or fees collected under a diversion agreement entered into by the Attorney General will be deposited in the Fraud and Abuse Criminal Prosecution Fund; and add a provision allowing the Attorney General to enter into agreements with the appropriate county or district attorney, or other appropriate parties, regarding the supervision of conditions of the diversion agreement.

These provisions take effect July 1, 2019.

Out-of-State Criminal History

The bill amends a statute in the Kansas Criminal Code governing criminal history classification to make current provisions for classification of an out-of-state crime as person or nonperson applicable only to misdemeanors. The bill adds the following provisions applicable to out-of-state felony crimes.

Out-of-State Felony Crimes

The bill requires an out-of-state conviction or adjudication for the commission of a felony offense or an attempt, conspiracy, or criminal solicitation to commit a felony offense (out-of-state felony) be classified as a person felony if one or more of the following circumstances is present, as defined by the convicting jurisdiction in the elements of the out-of-state offense:

- Death or killing of any human being;
- Threatening or causing fear of bodily or physical harm or violence, causing terror, physically intimidating, or harassing any person;
- Bodily harm or injury, physical neglect or abuse, restraint, confinement, or touching of any person, without regard to degree;
- The presence of a person, other than the defendant, a charged accomplice, or another person with whom the defendant is engaged in the sale, distribution, or transfer of a controlled substance or non-controlled substance;
- Possessing, viewing, depicting, distributing, recording, or transmitting an image of any person;
- Lewd fondling or touching, sexual intercourse, or sodomy with or by any person, or an unlawful sexual act involving a child under the age of consent;
- Being armed with, using, displaying, or brandishing a firearm or other weapon, excluding crimes of mere unlawful possession; or
- Entering or remaining within any residence, dwelling, or habitation.

Additionally, the bill requires an out-of-state felony be classified as a person felony if the elements of the out-of-state felony necessarily prove a person was present during the commission of the offense, if the person present was someone other than the defendant, a charged accomplice, or another person with whom the defendant is engaged in the sale, distribution, or transfer of a controlled substance or non-controlled substance. "Presence of a person" includes physical presence and presence by electronic or telephonic communication.

An out-of-state felony will be classified as nonperson if the elements of the offense do not require proof of any of the above circumstances.

Claims in Appeals Related to Criminal Cases

The bill amends a provision listing certain claims arising from criminal cases that may be reviewed in "any appeal" to specify these claims may be reviewed in "any appeal from a judgment of conviction." The claims, which are not amended by the bill, are:

- A departure sentence resulted from partiality, prejudice, oppression, or corrupt motive;
- The sentencing court erred in including or excluding recognition of a prior conviction or juvenile adjudication for criminal history scoring purposes; or
- The sentencing court erred in ranking the crime severity level of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

The bill states these amendments are procedural and are to be construed and applied retroactively.

Correction of Illegal Sentence

The bill amends the statute governing correction of an illegal sentence to specify an illegal sentence may be corrected only while the defendant is serving such sentence and to define "change in the law" as a statutory change or an opinion by a Kansas appellate court, unless the opinion is issued while the sentence is pending an appeal from the judgment of conviction.

The bill states these amendments are procedural and are to be construed and applied retroactively.

Drug Abuse Treatment Programs

The bill expands eligibility for the nonprison sanction of placement in a certified drug abuse treatment program to include offenders convicted of a controlled substance cultivation or distribution offense that falls within existing severity level and criminal history categories eligible for such treatment for controlled substance possession offenses. These categories include drug severity level 5 offenses without certain previous convictions and drug severity level 4 offenses with a criminal history score of E or lower without certain previous convictions. [Note: Under

continuing law, Kansas' sentencing guidelines for drug crimes utilize a grid containing the crime severity level (1 to 5, 1 being the highest severity level) and the offender's criminal history score (A to I, A being the highest criminal history score) to determine the presumptive sentence for an offense. There is no current cultivation or distribution offense with drug severity level 5. An offender is classified as criminal history level E if the offender has at least three nonperson felonies, but no person felonies.]

These provisions take effect July 1, 2019.

Probation Violation Sanctions

The bill amends the authorized dispositions statute in the Kansas Criminal Code to remove the ability of the sentencing court to specifically withhold authority from supervising court services or community corrections officers to impose certain probation violation sanctions of confinement in a county jail for a two-day or three-day period. The bill also requires the sentencing court to authorize an additional 18 days of confinement in a county jail for the purpose of these and similar sanctions.

The bill amends the statute governing probation violations to remove violation sanctions allowing the court to remand the defendant to the custody of the Secretary of Corrections for periods of 120 days or 180 days. The bill removes procedural provisions related to or dependent on these sanctions, removes statutory references to the sanctions (including those in the statute governing postrelease supervision), and moves provisions allowing revocation without first imposing remaining sanctions in certain situations. The bill requires a court that continues or modifies the probation, assignment to a community correctional services program, suspension of sentence, or nonprison sanction to authorize an additional 18 days of sanction time in a county jail for use in imposing the two-day and three-day sanctions.

These provisions take effect July 1, 2019.

Penalties for Involuntary Manslaughter and Abuse of a Child

The bill amends the penalty for the crime of involuntary manslaughter to raise it from a severity level 5 to a severity level 3 person felony if the victim is under six years of age.

The bill amends the penalty for the crime of abuse of a child to raise it from a severity level 5 to a severity level 4 person felony if the victim is under six years of age.

The bill states these provisions shall be known as "Mireya's Law."

These provisions take effect July 1, 2019.

Mitigating Factor when Victim is an Aggressor or Participant in Criminal Conduct

The bill amends the statute setting forth a nonexclusive list of mitigating factors that may be considered by a sentencing court in determining whether substantial and compelling reasons for a departure sentence exist. Specifically, the bill amends a mitigating factor that may be applied when the victim was an aggressor or participant in the criminal conduct associated with

the crime of conviction, to prohibit the application of this factor to a sexually violent crime or to electronic solicitation, when:

- The victim is less than 14 years of age and the offender is at least 18 years of age; or
- The offender hires any person by giving, or offering to or agreeing to give, anything of value to the person to engage in an unlawful sex act.

Continuing law defines “sexually violent crime” to include the following offenses:

- Rape;
- Indecent liberties with a child and aggravated indecent liberties with a child;
- Criminal sodomy and aggravated criminal sodomy;
- Indecent solicitation of a child and aggravated indecent solicitation of a child;
- Sexual exploitation of a child;
- Aggravated sexual battery;
- Aggravated incest;
- Aggravated human trafficking, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
- Internet trading in child pornography or aggravated internet trading in child pornography;
- Commercial sexual exploitation of a child; or
- An attempt, conspiracy, or criminal solicitation of the above offenses.

These provisions take effect July 1, 2019.

Domestic Violence Calls; Law Enforcement Agency Notification Policies

Continuing law requires law enforcement agencies in the state to adopt written policies regarding domestic violence calls and make such policies available to all officers of the agency. The bill requires all law enforcement agencies in the state provide training to law enforcement officers regarding the agency’s adopted policy.

The bill adds requirements that such written policies provide, when an arrest is made for a domestic violence offense, including an arrest for violation of a protection order, the officer shall provide the victim information regarding:

- The fact that in some cases the person arrested can be released from custody in a short amount of time;
- The fact that in some cases a bond condition may be imposed on the person arrested that prohibits contact with the victim for 72 hours, and if the person arrested contacts the victim during that time, the victim should notify law enforcement immediately; and
- Any available services within the jurisdiction to monitor custody changes of the person being arrested, including, but not limited to, the Kansas Victim Information and Notification Everyday (VINE) service, if available in the jurisdiction.

These provisions take effect July 1, 2019.

Technical Amendments

The bill makes additional amendments adding statutory references; however, these amendments are made to reconcile conflicting versions of the statute and are non-substantive. The bill accordingly also repeals a conflicting version of a criminal history statute.

Effective Date

The bill takes effect upon publication in the *Kansas Register*, except for individual provisions otherwise noted as effective July 1, 2019.

ECONOMIC DEVELOPMENT

Evaluation and Transparency of Economic Development Programs and Tax Incentives; Rural Housing Bond Maturity; HB 2223

HB 2223 requires analyses and reporting of certain economic development incentive programs to be performed by the Legislative Division of Post Audit (LPA) and the Department of Commerce (Department).

The bill also extends the maximum maturity on bonds issued to finance projects under the Kansas Rural Housing Incentive District Act.

Legislative Division of Post Audit

The bill authorizes the Legislative Post Audit Committee (Committee) to conduct a systematic and comprehensive review, analysis, and evaluation of each “economic development incentive program,” as that term is defined by the bill, every three years.

Subject to appropriation and as directed by the Committee, the Post Auditor must include in each evaluation:

- A description of the economic development incentive program, including its history and goals;
- A literature review of the effectiveness of the incentive program, including an inventory of similar programs in other states;
- An estimate of the economic and fiscal impact of the incentive program, which may include:
 - The extent to which the incentive program changed business behavior;
 - The results of the incentive program on the Kansas economy, including direct and indirect impacts and negative effects on Kansas businesses;
 - A comparison with other incentive programs or economic development policies;
 - An assessment of whether the State can afford the incentive program;
 - An assessment of the incentive program’s design and administration;
 - An assessment of whether the incentive program’s goals are achieved;
 - Recommendations that allow for the incentive program to be more easily or conclusively evaluated in the future;
 - A “return on investment calculation,” as that term is defined by the bill;
 - Methodology and assumptions used in the evaluation and a critique of multiplier methodologies;
 - An analysis of significant opportunity costs; and

- Any other information the Committee deems necessary to assess the effectiveness of the incentive program.

Confidential information must be redacted from any audit report.

The bill does not limit the Legislature's oversight of economic development incentive programs.

Department of Commerce

The Department must establish a database for the purpose of disclosing information on economic development incentive programs, which is defined to include certain income tax credits and locally granted property tax exemptions, in addition to various programs administered by the Department, including the Job Creation Program Fund and the Economic Development Initiatives Fund.

Relative to economic development incentives, the Department must provide data on certain programs providing more than \$50,000 in annual incentives and make the information available to the public in a digital format. The bill requires the information to be available for multiple years and searchable and available on the Internet *via* the Department's website. The database must contain the names and addresses of "recipients," as that term is defined by the bill, receiving Sales Tax and Revenue (STAR) Bond benefits, as well as the names of principals and officers for each STAR Bond project developer; annual amount of incentives claimed and distributed to each recipient; and qualification criteria for each economic development program, including the number of jobs created or amount of capital investments made. The bill requires additional descriptive information to include the history of each program; its purpose and goals; current applications; the program cost and return on investment (ROI), including assumptions used to calculate ROI; annual reports; and the amount of incentives by county. However, information on the economic development incentive programs will not be disclosed if the disclosure would violate any federal law or confidentiality provisions of agreements executed prior to July 1, 2019, or if the Secretary of Commerce determines the disclosure would be detrimental to an incentive program or a project, including a STAR Bond project. In the latter case, the bill requires the Secretary of Commerce to submit a written report to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce any information not disclosed and the reasons for nondisclosure. That report and any associated testimony or committee discussion are exempt from the open meeting and record laws; this provision sunsets on July 1, 2024.

Taxpayer confidentiality provisions are modified to allow the Secretary of Revenue to disclose certain income and privilege tax credit information to the Department, except that certain social and domestic tax credits are excluded from the provisions of the bill, including adoption credits, earned income tax credits, food sales tax credits, child and dependent care tax credits, and homestead property tax refund credits.

Starting in the 2020 Session, the Secretary of Commerce is required to make annual oral presentations to the Legislative Post Audit Committee, the House Committee on Commerce, Labor and Economic Development, and the Senate Committee on Commerce regarding incentive programs and their economic impact.

Kansas Rural Housing Incentive District Act

The bill extends from 15 years to 25 years the maximum maturity on bonds issued to finance projects under the Kansas Rural Housing Incentive District Act. The governing body of cities or counties may extend from 15 years to 25 years the maximum period for individual projects authorized under the Act.

HEALTH

Claire and Lola’s Law—Possession of Certain Cannabidiol Treatment Preparations, Actions and Proceedings Prohibited, Affirmative Defense; Grandfathering of Certain Podiatrists; SB 28

SB 28 creates and amends law related to possession of certain cannabidiol treatment preparations. The bill also grandfathers in Doctors of Podiatric Medicine (DPMs) who completed a two-year post-doctoral surgical residency program prior to July 1, 2007, in reconstructive rearfoot/ankle surgery, who were inadvertently excluded in a 2014 statutory revision, and who meet certain conditions, to the podiatrists who may perform surgery on the ankle.

Cannabidiol Treatment Preparations

Claire and Lola’s Law

The bill creates “Claire and Lola’s Law,” which prohibits state agencies and political subdivisions from initiating child removal proceedings or child protection actions or proceedings based solely upon the parent’s or child’s possession or use of cannabidiol treatment preparation in accordance with the affirmative defense established by the second section of the bill. “Cannabidiol treatment preparation” is defined to mean an oil containing cannabidiol and tetrahydrocannabinol and having a tetrahydrocannabinol concentration of no more than 5 percent relative to the cannabidiol concentration in the preparation verified through testing by a third-party, independent laboratory.

The bill prohibits construing its provisions to:

- Require the Kansas Medical Assistance Program or various other policies, plans, contracts, or organizations that provide coverage for accident and health services and that are delivered, issued for delivery, amended, or renewed on or after July 1, 2019, to provide payment or reimbursement for any cannabidiol treatment preparation; or
- Allow the possession, sale, production, redistribution, or use of any other form of cannabis.

The bill defines “debilitating medical condition” as a medically diagnosed chronic disease or medical condition causing a serious impairment of strength or ability to function, including one that produces seizures, for which the patient is under current and active treatment by a physician licensed to practice medicine and surgery in Kansas.

The bill also defines “tetrahydrocannabinol concentration” and “third-party, independent laboratory.”

Amendments to Criminal Law

The bill amends the crime of unlawful possession of controlled substances to provide an affirmative defense to a prosecution of such crime arising out of a person’s possession of any cannabidiol treatment preparation (as defined in the new section) if the person has a debilitating

medical condition (as defined in the new section) or is the parent or guardian of a minor child with such condition; is possessing a cannabidiol treatment preparation being used to treat such condition; and has simultaneous possession of a letter that (a) shall be shown to a law enforcement officer on such officer's request, (b) is dated within the preceding 15 months and signed by the Kansas licensed physician who diagnosed the qualifying condition, (c) is on such physician's letterhead, and (d) identifies the person or minor child as such physician's patient and identifies the patient's qualifying condition.

Grandfathering of Certain Podiatrists and Removal of Expired Committee

The bill adds DPMs who have completed a two-year post-doctoral surgical residency program prior to July 1, 2007, in reconstructive rearfoot/ankle surgery to the podiatrists who may perform surgery on the ankle, provided such grandfathered podiatrists are also either board-certified or board-qualified progressing to board certification in reconstructive rearfoot/ankle surgery by a nationally recognized certifying organization acceptable to the State Board of Healing Arts. The bill also removes statutory language referencing the Podiatry Interdisciplinary Advisory Committee; authority for it expired on July 1, 2018.

JUDICIARY

Judicial Branch Surcharges; Tribal Court Judgments; Bonding Requirements for Cruelty to Animals; SB 20

SB 20 extends judicial branch surcharges on various docket fees, creates law concerning tribal court judgments, and amends provisions regarding bonding in the statute governing the crime of cruelty to animals.

Judicial Branch Surcharges

The bill extends the judicial branch surcharge the Legislature reauthorized in 2017 HB 2041 to fund non-judicial personnel for six years, through June 30, 2025; the former sunset date was June 30, 2019.

Tribal Court Judgments

The bill creates law providing that district courts shall extend full faith and credit to orders, judgments, and other judicial acts of tribal courts of any federally recognized Indian tribe, pursuant to Kansas Supreme Court rules. Such recognition is extended only to judgments of those tribal courts that grant full faith and credit to judgments of Kansas state courts. The bill specifies any person who files a tribal court judgment is required to pay a docket fee as prescribed by continuing law in the Kansas Code of Civil Procedure, and any additional fees or charges not specifically covered by such docket fee are assessed as additional court costs in the same manner and extent as if the action had been originally filed in the court where the tribal court judgment is filed. The bill also states nothing in this section is construed to be a waiver of the sovereign immunity of the State of Kansas or of a federally recognized Indian tribe.

Bonding Requirements for Cruelty to Animals

The bill amends provisions regarding bonding in the statute governing the crime of cruelty to animals. Specifically, the bill provides the bond required to be filed in the county where the animal was taken into custody, rather than in the county where the animal is being held. The bill also adds a requirement that the bond be maintained and renewed every 30 days as necessary to cover the cost of care and treatment of the animal until disposition of the animal by the court and a provision that any costs collected by the court or through the bond be transferred to the entity responsible for paying the cost of care, treatment, or boarding of the animal. The bill reorganizes continuing provisions to clarify the timing and applicability of the bonding requirement.

Kansas Consumer Protection Act; Scrap Metal Theft Reduction Act; HB 2248

HB 2248 amends definitions in the Kansas Consumer Protection Act (KCPA) and amends the Scrap Metal Theft Reduction Act (Act), as follows.

Kansas Consumer Protection Act Definitions

The bill amends definitions in the KCPA. Specifically, it amends the definition of “supplier” by removing an exclusion for any bank, trust company, or lending institution that is subject to state or federal regulation with regard to disposition of repossessed collateral by such entity. The bill also amends the definition of “consumer transaction” to exclude the disposition of repossessed collateral by any supplier that is subject to and compliant with any state or federal law or rules and regulations with regard to disposition of such repossessed collateral.

Scrap Metal Theft Reduction Act Amendments

The bill creates a new section in the Act setting an expiration date of July 1, 2023, for all provisions of the Act.

The bill delays or makes unenforceable certain provisions of the Act until July 1, 2020 (prior law delayed these provisions until January 1, 2020). The following provisions are delayed by the bill:

- A requirement that the Attorney General establish a central database for the Act and certain actions required of scrap metal dealers related to registering for and forwarding information to the database [*Note:* These provisions are also substantively amended, effective July 1, 2020, as detailed below.];
- The ability of the Attorney General, upon a finding a scrap metal dealer has violated any provision of the Act, to impose a civil penalty not less than \$100 nor more than \$5,000;
- The requirements that a scrap metal dealer obtain a copy of an identification card of a seller of scrap metal and a photograph of the item or items being sold [*Note:* These provisions are also substantively amended, effective July 1, 2020, as detailed below.]; and
- A prohibition on certain actions related to purchasing and disposing of scrap metal [*Note:* Some of these provisions are also substantively amended, effective July 1, 2020, as detailed below.].

The following amendments to the Act will be effective July 1, 2020.

The bill establishes the Scrap Metal Data Repository Fund (Fund) in the State Treasury, to be administered by the Director of the Kansas Bureau of Investigation (KBI). Expenditures from the 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 Director of the KBI or the Director of the KBI’s designee. Moneys credited to the Fund may be expended for the administration of the duties, functions, and operating expenses incurred under the provisions of the Act. The Attorney General may transfer moneys from the Scrap Metal Theft Reduction Fee Fund to the Fund *via* procedures specified by the bill.

The bill replaces references to the Attorney General with references to the KBI in provisions regarding the scrap metal database, making the KBI responsible for establishing and

maintaining the database. Language is added allowing information from the database to be provided to the Attorney General. The review deadline and sunset date for a Kansas Open Records Act exception for the information maintained in the database is extended for four years, until July 1, 2024. An outdated database report requirement is replaced with a requirement that the Attorney General submit annual reports on or before February 1, beginning in 2021, regarding the implementation, administration, and enforcement of the Act. The report must be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Senate and House Committees on Judiciary.

The bill adds language prohibiting any entity contracting with the Attorney General or the KBI to provide or maintain the database from requiring a scrap metal dealer (dealer) to contract with the entity for the authority to release proprietary or confidential data, including customer information. Such entities are prohibited from charging any fee to the dealer as a condition of providing information to the database required by the Act, including an electronic submission fee.

The bill states a dealer providing information to the database as required by the Act shall not be subject to civil liability for any claim arising from the negligence or omission by the State of Kansas or any contracting entity in the collection, storing, or release of information provided by the dealer to the database.

Requirements in a statute related to information a seller of regulated scrap metal must provide and the dealer's register of such information are amended to:

- Remove a requirement that a legible fingerprint be obtained from a seller if the seller uses an official governmental document for a country other than the United States to meet certain requirements;
- Allow a copy of a card or document already in a dealer's register to suffice for subsequent transactions;
- Remove civil penalties for failure to comply with these specific requirements that will become redundant once the general civil penalties for failure to comply with the Act take effect on July 1, 2020;
- Amend a photograph requirement of the item or lot of items to specify one such photograph is required and to also require one photograph of the vehicle in which the junk vehicle or other regulated scrap metal property is delivered; and
- Remove a provision making the requirement that the dealer forward the information to the database unenforceable from June 1, 2017, to July 1, 2020.

The provision requiring the dealer forward the information required by this statute to the database is amended to require such forwarding occur for each transaction within 72 hours of the transaction and require the information be provided in a manner prescribed by the KBI. The KBI is given rule and regulation authority to provide which information and photographs required by this statute will be entered into the database and the manner for submitting the information and photographs to the KBI.

In statutes regarding scrap metal dealer registration, the bill removes criminal history records check and fingerprinting requirements for persons filing for registration. Effective July 1, 2020, the bill sets the registration and registration renewal fees at “not more than \$500.” Under prior law, the registration fee was set at “not less than \$500 nor more than \$1,500” and the renewal fee was set at “not more than \$1,500.” The bill also removes language making some provisions of these statutes unenforceable from June 1, 2017, to July 1, 2020.

LEGISLATURE

Reconciling Statute Amendments; HB 2203

HB 2203 reconciles amendments to statutes that were amended more than once during the current and prior legislative sessions. For such statutes, the bill repeals one version and, if necessary, amends the continuing version with non-contradictory amendments, creating a single version of the statute containing all amendments.

PUBLIC SAFETY

Emergency Medical Services; SB 53

SB 53 creates and amends law related to emergency medical services and licensure by the Emergency Medical Services Board (Board).

Inactive Certificate

The bill creates the designation of inactive certificate and authorizes the Board to issue an inactive certificate to persons currently certified by the Board who make a written application on a Board form and pay the corresponding fee.

The bill authorizes the Board to issue such inactive certificates only to persons who are not directly providing emergency medical services (EMS) in the state and are not holding themselves out to the public as providing EMS. The bill further states possession of an inactive certificate does not allow the holder to engage in the practice of EMS.

Inactive certificates may be renewed pursuant to Board procedure and each certificate holder is subject to continuing laws regarding EMS, but inactive certificate holders are not required to complete any continuing education requirements set by the Board.

The bill allows inactive certificate holders to apply for an active certificate by filing a written application on a form prepared by the Board and paying the corresponding fee. The Board has the authority to require additional testing, training, or education as deemed necessary to establish the inactive certificate holder's ability to engage in the provision of EMS with reasonable skill and safety.

Board Meetings

The bill reduces the number of required Board meetings from six to four each year.

Emergency Medical Service Providers

The bill adds a definition for "emergency medical service provider," which means an emergency responder, advanced emergency medical technician, emergency medical technician, or paramedic certified by the Board.

The bill also establishes certain background check procedures for EMS provider certification applicants. The Board is allowed to require applicants to submit fingerprints and to submit to a state and national criminal history record check. The Board is allowed to submit such fingerprints to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for state and national criminal history record checks. The bill authorizes the Board to use information obtained from fingerprinting and background checks to verify the identity of the applicant and to determine the qualifications and fitness of the applicant to be issued or to maintain a certificate.

The bill requires local and state law enforcement to assist in taking fingerprints of applicants and the KBI to release to the Board all records of an applicant's adult convictions, non-convictions, or adjudications from any state.

Emergency Medical Services Criminal History and Fingerprinting Fund

The bill authorizes the Board to charge a fee equal to the cost of fingerprinting and state and federal background checks. The Board must remit such funds to the State Treasurer.

The bill creates the Emergency Medical Services Criminal History and Fingerprinting Fund (Fund), administered by the Board. The bill requires the State Treasurer to deposit the remitted funds into the Fund. The bill requires all moneys credited to the Fund be used only to pay the KBI for processing of fingerprints and criminal background checks. The bill requires expenditures from the Fund be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the Board chairperson.

Technical and Conforming Changes

The bill removes definitions for certain certification levels no longer certified by the Board, as well as corresponding statutory provisions related to those certification levels, and makes conforming technical changes to other statutory provisions.

Effective Date

The bill takes effect upon publication in the *Kansas Register*.

STATE FINANCES

State Budget—Appropriations; House Sub. for SB 25

House Sub. for SB 25 includes adjusted funding for fiscal year (FY) 2019, FY 2020, and FY 2021 for select state agencies, and FY 2019 and FY 2020 capital improvement expenditures for a number of state agencies. An overview of the Governor's amended budget recommendations for FY 2019 and FY 2020 and the Conference Committee's adjustments to the Governor's amended recommendations are reflected below.

FY 2019

The approved FY 2019 budget includes expenditures of \$17.2 billion, with \$7.1 billion from the State General Fund (SGF). The budget increases total expenditures by \$7.2 million, including \$6.0 million from the SGF, above the Governor's recommendation. The bill also deletes 80.0 full-time equivalent (FTE) positions. The FY 2019 appropriations for claims against the State is included.

Major adjustments to the FY 2019 approved budget include the following:

- Department of Administration: One-time payment to the federal government for the debt setoff settlement agreement (\$9.3 million);
- Department for Children and Families:
 - Kansas Eligibility Enforcement System (KEES) upgrade (\$1.6 million);
 - Family First Prevention Services Act (FFPSA) (\$452,516); and
 - Child welfare positions (\$415,526);
- Human services non-caseload decreases, primarily Medicaid waiver programs (\$43.7 million);
- Kansas Department of Health and Environment: Add \$2.2 million for the KanCare Clearinghouse;
- Kansas Department for Aging and Disability Services: Add \$3.9 million, including \$2.6 million from the SGF, for community mental health centers providing crisis center services, Clubhouse Model programs, the Client Assessment Referral and Evaluation program, and other technical adjustments;
- State hospital revenue shortfall (\$5.9 million);
- Adjutant General's Department: Capital improvements for life, health, and safety projects at armories (\$1.4 million);
- Pooled Money Investment Board (PMIB): Delete the transfer of \$264.3 million from the SGF to the Pooled Money Investment Portfolio to complete the

repayment of the entirety of the PMIB bridge loan in FY 2019. This leaves \$52.9 million for the FY 2019 scheduled transfer; and

- Transfer to the State Highway Fund: Add language to transfer up to \$50.0 million from the SGF to the State Highway Fund at the end of FY 2019. The amount to be transferred is the amount that revenue receipts during FY 2019 exceed FY 2019 Consensus Revenue Estimates, up to \$50.0 million. Expenditure of these funds would require a 25.0 percent local match.

The bill removes language transferring 10.0 percent of the SGF ending balance to the Budget Stabilization Fund in FY 2021 and delays currently allowed expenditures from the Budget Stabilization Fund until FY 2025.

The bill amends law regarding transfers and expenditures from the Budget Stabilization Fund and replaces them with the following directives:

- When state tax receipts exceed the previous fiscal year's receipts, the first 3.0 percent are retained in the SGF;
- The next 1.0 percent are deposited into the Budget Stabilization Fund;
- The next 0.5 percent are deposited in the newly created Debt Prepayment Fund;
- Any amount above 4.5 percent of previous year's receipts remain in the SGF;
- No deposits are required once the Budget Stabilization Fund balance exceeds 15.0 percent of the preceding fiscal year's state tax receipts; and
- No deposits are required once the Debt Prepayment Fund balance exceeds 15.0 percent of the preceding fiscal year's amount of principal of bond debt service.

The bill also includes various restrictions on when budget stabilization moneys and debt prepayment could be withdrawn.

FY 2020

The approved FY 2020 budget totals \$18.4 billion, including \$7.7 billion from the SGF. The budget is an all funds decrease of \$261.3 million and a SGF increase of \$176.6 million from the FY 2020 Governor's recommendation. The bill also deletes 85.0 FTE positions.

Major adjustments to the FY 2020 approved budget include the following:

- Kansas Department of Health and Environment—Health Care Finance:
 - Add \$4.9 million and 313.00 FTE positions for the KanCare Clearinghouse;
 - Add \$12.4 million for the Children's Health Insurance Program;

- Add \$3.0 million, including \$1.3 million from the SGF, to increase Medicaid dental reimbursement rates for FY 2020; and
- Add \$14.2 million, all from the SGF, for the Health Care Assessment Improvement Program and require the agency to submit a request to increase the hospital assessment rate to 3.0 percent;
- State hospital revenue shortfall (\$5.8 million);
- Kansas Department for Aging and Disability Services:
 - Add \$10.1 million, including \$4.2 million from the SGF, to provide a 1.5 percent increase in the reimbursement rates for providers of Home and Community Based Services (HCBS) waiver services for FY 2020;
 - Add \$6.8 million, including \$3.1 million from the SGF, to rebase the reimbursement rates for the Program of All-Inclusive Care for the Elderly (PACE) for FY 2020;
 - Add \$6.0 million, including \$2.5 million from the SGF, to reduce the wait lists for Medicaid HCBS waivers for individuals with intellectual/developmental disabilities (\$5.0 million all funds) and individuals with physical disabilities (\$1.0 million all funds) for FY 2020;
 - Add \$6.8 million, including \$2.8 million from the SGF, to provide a 1.0 percent increase in the reimbursement rates for nursing facilities for FY 2020;
 - Add \$5.0 million, all from the SGF, for Community Mental Health Center grants for FY 2020; and
 - Add \$12.4 million, including \$5.3 million from the SGF, to increase the protected income level for HCBS waiver services recipients and individuals in the PACE to \$1,177 per month for FY 2020;
- Department for Children and Families:
 - Add \$2.6 million from the SGF to add 16.0 FTE additional child welfare staff positions, for a total of 42.0 FTE positions over two years;
 - Add \$9.3 million, including \$6.9 million from the SGF, for FFPSA; and
 - Add \$7.1 million, including \$3.0 million from the SGF, for KEES upgrades;
- Department of Corrections and correctional facilities: Add \$41.0 million, all from the SGF, for shrinkage, hiring, compensation, contract beds, hepatitis C treatment, housing adult female offenders (\$3.0 million), and the Medical contract;
- Docking State Office Building: Add language directing the Department of Administration to provide a survey of potential options for the deconstruction, repair, or renovation of the Docking State Office Building, to be reported to the Legislature on or before January 13, 2020;

- Board of Regents: Add \$33.0 million, all from the SGF, to restore Kansas State University global food system research, performance, non-tiered course credit, postsecondary tiered technical education state aid, municipal university operating grants, and comprehensive grants;
- Department of Education: Add \$5.0 million, all from the SGF, to provide funding for safety and security grants;
- Kansas Bureau of Investigation: Add \$1.0 million, all from the SGF, and 8.0 FTE positions for cyber and financial crimes investigative capacity;
- Kansas Department of Transportation: Add \$6.4 million, all from the State Highway Fund, for the acceleration of delayed Transportation Works for Kansas projects for FY 2020. Funding for this acceleration would come from reducing transfers from the State Highway Fund to the SGF for FY 2020; and
- State employee pay: Provide for a 2.5 percent salary increase for all state employees, including those in the Judicial Branch, that are not otherwise receiving an increase in FY 2020. Statewide elected officials and legislators are excluded.

STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

**House Sub. for SB 25 Conference Profile
(Dollars in Millions)**

	Actual FY 2018	Rec. FY 2019	Rec. FY 2020
Beginning Balance	\$ 108.5	\$ 761.7	\$ 866.2
Receipts (April 2019 Consensus)	7,302.3	7,236.6	7,327.0
Governor's Revenue Adjustments	0.0	(8.6)	244.6
PMIB Bridge Funding in Gov. Rec.	0.0	(264.3)	52.9
Legislative Receipt Adjustments	0.0	264.2	(191.2)
Adjusted Receipts	7,302.3	7,227.8	7,433.3
Total Available	\$ 7,410.8	\$ 7,989.5	\$ 8,299.6
Less Expenditures	6,649.1	7,123.3	7,604.2
KPERS Reammortization Deletion	0.0	0.0	145.3
<i>Expenditures Subtotal</i>	<i>6,649.1</i>	<i>7,123.3</i>	<i>7,749.5</i>
ENDING BALANCE	\$ 761.7	\$ 866.2	\$ 550.0
Ending Balance as a % of Expenditures	11.5 %	12.2 %	5.4 %

STATE AND LOCAL GOVERNMENT

Attorney General; Crime Victims Compensation Division; Youth Suicide Prevention, VINE Coordinators; KOMA; KORA; Background Checks; Criminal Justice Reform Commission; Closed Case Task Force; HB 2290

HB 2290 creates and amends law related to various public agencies, as follows.

Office of the Attorney General

Crime Victims Compensation Division

The bill creates in the Office of the Attorney General a Crime Victims Compensation Division (Division) to administer and support the operations of the Crime Victims Compensation Board (CVCB). The Division will receive compensation applications and supporting papers and will, if requested by the CVCB, investigate the claim, appear in related proceedings, and present evidence opposing or in support of an award.

The bill directs the Attorney General to establish and maintain a principal office for the Division and other necessary offices, appoint employees and agents, and prescribe the duties and compensation for such employees and agents, subject to appropriations. The Division will be headed by a director appointed by the Attorney General in consultation with the CVCB.

The bill directs the Division to prescribe application forms for compensation, request investigations and data from various sources to enable the CVCB to determine qualification for compensation, make available specified documents of the CVCB pursuant to the Kansas Open Records Act (KORA), publicize the availability of compensation and information regarding the filing of claims, and perform any other duties assigned by the Attorney General to carry out the above provisions.

The bill amends the statute setting forth powers and duties of the CVCB to remove duties related to offices, employees, forms, KORA, and publicity, and the power to request investigations and data. [Note: These duties and powers are essentially transferred to the Division, as outlined above.] A confidentiality provision regarding a claimant's or victim's juvenile court records is moved to the new section. The term "duties" as it relates to the CVCB regarding rules and regulations is changed to "powers."

The statute governing applications for compensation is amended to change references to the CVCB in provisions regarding form and filing of applications to refer to the Division instead.

A provision regarding confidentiality of records and information given to the CVCB is amended to include records and information given to the Division.

The statute establishing the Crime Victims Compensation Fund is amended to add operations of the Division to the acceptable uses of moneys from that fund.

Kansas Youth Suicide Prevention Coordinator

The bill requires the Attorney General to appoint a Kansas Youth Suicide Prevention Coordinator and additional support staff (as appropriations allow) to identify, create, and coordinate and support youth suicide awareness and prevention efforts throughout the state. The coordinator has the discretion to:

- Lead the development, implementation, and marketing of a website, online application, and mobile phone application to facilitate communication with youth for the purpose of preventing youth safety and well-being;
- Develop and promote multidisciplinary and interagency strategies to help communities, schools, mental health professionals, medical professionals, law enforcement, and others work together and coordinate efforts to prevent and address youth suicide;
- Organize events that bring together youth, educators, and community members from across the state to share information and receive training to prevent and address youth suicide in their communities;
- Gather, disseminate, and promote information focused on suicide reduction; and
- Perform any other duty assigned by the Attorney General to carry out the provisions of the bill.

Kansas VINE Coordinator

The bill requires the Attorney General to appoint a Kansas Victim and Notification Everyday (VINE) Coordinator and additional support staff (as appropriations allow), to work with interested parties including, but not limited to, sheriffs throughout the state to oversee the statewide implementation of the VINE system. The Attorney General is authorized to appoint an advisory board, consisting of up to five members, including one who must be a victim advocate and one who must be a representative of the Kansas Sheriffs' Association, to make recommendations for the implementation and operation of the VINE program. The bill prohibits any member from receiving any compensation, subsistence, mileage, or other allowance for serving on the advisory board, and the Attorney General is required to promulgate rules and regulations as necessary to implement the provisions of the bill.

Payment for Defense of KORA and KOMA Violations

The bill provides that when payment is made from the Tort Claims Fund on behalf of a state agency or employee for defense or indemnification in an action, proceeding, or investigation involving an alleged violation of KORA or the Kansas Open Meetings Act (KOMA), the agency that requests such defense or indemnification (or employs the employee making the request) is required to transfer to the Tort Claims Fund an amount equal to the payment made by the Tort Claims Fund on behalf of the agency for such defense or indemnification.

KBI—Background Checks

The bill authorizes qualified entities, as defined by the bill, to require state and national criminal history record checks of providers, both employees and volunteers, who have supervised and unsupervised access to children, the elderly, or individuals with disabilities to determine whether that individual has the qualifications and fitness to be permitted to serve as a provider. The bill allows qualified entities to request the Kansas Bureau of Investigation (KBI) conduct the state and national criminal history record checks. The bill outlines the information required to be provided with a request for a state and national criminal history check. The bill requires local and state law enforcement officers and agencies to assist a qualified entity in taking and processing a person's fingerprints for such criminal history record checks.

The bill requires the KBI to release all records of a person's adult convictions and diversions to the qualified entity that submitted the request for the criminal history record checks. The bill also requires a qualified entity to be solely responsible for making any determination that a person's criminal history record shows the person has been convicted of a crime that bears upon the person's fitness to serve as a provider. The bill clarifies the KBI is not required to make such a determination of fitness on behalf of any qualified entity.

Definitions

The bill defines the following terms:

- "Provider" to mean a person who:
 - Is employed by any qualified entity and has, seeks to have, or may have supervised or unsupervised access to children, the elderly, or individuals with disabilities to whom the qualified entity provides care;
 - Is a volunteer of a qualified entity and has, seeks to have, or may have supervised or unsupervised access to children, the elderly, or individuals with disabilities to whom the qualified entity provides care; or
 - Owns, operates, or seeks to own or operate a qualified entity; and
- "Qualified entity" to mean a business or organization that provides care to children, the elderly, or individuals with disabilities that is private, for profit, not-for-profit, or voluntary, except such businesses or organizations that are subject to the provisions of KSA 2018 Supp. 39-970 [adult care homes, which includes any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disabilities, assisted living facilities, residential health care facilities, home plus, boarding care homes, or adult day care facilities], 39-2009 [center, facility, hospital, or provider of services] or 75-53,105 [employment or participation in any program administered by the Secretary for Children and Families or the Secretary for Aging and Disability Services for the placement, safety, protection, or treatment of vulnerable children or adults], or KSA 65-516 [child care facilities] or 65-5117 [home health agencies].

Documentation Required for Submission with Request for Criminal History Record Check

The bill requires a qualified entity to submit the following when requesting a state and national criminal history record check:

- The person's fingerprints; and
- A copy of a completed and signed statement furnished by the qualified entity that includes:
 - A waiver allowing the qualified entity to request and receive a criminal history record check to be used in determining the person's qualification and fitness to serve as a provider;
 - The name, address, and date of birth of the person as it appears on a valid identification document;
 - A disclosure of whether the person has ever been convicted of or is the subject of pending charges for a criminal offense and, if convicted, a description of the crime and the result of the conviction; and
 - A notice to the person that he or she is entitled to obtain a copy of the criminal history record check to challenge the accuracy and completeness of any information contained in such report before any final determination is made by the qualified entity.

Kansas Open Records Act Exceptions

The bill continues in existence the following exceptions to KORA:

- KSA 9-513c, concerning information or reports obtained and prepared by the State Bank Commissioner in the course of licensing or examining a person engaged in money transmission business (the bill also removes an expiration provision in KSA 9-513c);
- KSA 40-3407, concerning Health Care Stabilization Fund payments for certain fees and costs related to claims (the bill also removes an expiration provision in KSA 40-3407);
- KSA 21-2511(h)(2), concerning biological sample profile records maintained by the KBI;
- KSA 21-5905(a)(7), concerning interference with the judicial process by making available personal information about a judge or a judge's immediate family member;
- KSA 22-2302(b) and (c), concerning affidavits or sworn testimony supporting an arrest warrant;

- KSA 22-2502(d) and (e), concerning affidavits or sworn testimony supporting a search warrant;
- KSA 40-222(k)(7), concerning materials related to the Commissioner of Insurance's financial examination of insurance companies;
- KSA 44-714(e), concerning employment security appeals records and decisions and information;
- KSA 45-221(a)(55), concerning information or reports obtained and prepared by the Office of the State Bank Commissioner in the course of licensing or examining a person engaged in money transmission business;
- KSA 46-1106(g) regarding 46-1106(i), concerning confidentiality related to audits of the Kansas Lottery and the Kansas Public Employees Retirement System conducted by the Legislative Post Auditor or firm under the Legislative Post Audit Act;
- KSA 65-2836(i), concerning impairment of a licensee under the Kansas Healing Arts Act;
- KSA 65-2839a(c), concerning criminal and background investigation information received by the State Board of Healing Arts;
- KSA 65-2842(d), concerning records of the State Board of Healing Arts in investigation or disciplinary proceedings related to impairment;
- KSA 65-28a05(n), concerning information related to impairment of physician assistants;
- Article 6(d) of KSA 65-6230, concerning information and data collected under the Health Care Compact related to the health information of any individual;
- KSA 72-6314(a), concerning student data submitted to and maintained by a statewide longitudinal data system; and
- KSA 74-7047(b), concerning various records submitted to or generated by peer review related to technical professions.

Kansas Criminal Justice Reform Commission

The bill creates the Kansas Criminal Justice Reform Commission (Commission).

Commission Members

The Commission will be composed of the following voting members:

- One member of the Kansas Senate, appointed by the President of the Senate;
- One member of the Kansas Senate, appointed by the Minority Leader of the Senate;
- One member of the Kansas House of Representatives, appointed by the Speaker of the House of Representatives;
- One member of the Kansas House of Representatives, appointed by the Minority Leader of the Kansas House of Representatives;
- One member of the Judicial Branch Court Services, appointed by the Chief Justice of the Supreme Court;
- One criminal defense attorney or public defender, appointed by the Governor;
- One county or district attorney from an urban area and one county attorney from a rural area, appointed by the Kansas County and District Attorneys Association;
- One sheriff and one chief of police, appointed by the Attorney General;
- One professor of law from the University of Kansas School of Law and one professor of law from Washburn University School of Law, appointed by the deans of such schools;
- One drug and alcohol addiction treatment provider who provides services pursuant to the certified drug abuse treatment program, appointed by the Kansas Sentencing Commission;
- One district judge, appointed by the Kansas District Judges Association;
- One district magistrate judge, appointed by the Kansas District Magistrate Judges Association;
- One member representative of the faith-based community, appointed by the Governor;
- One member of a criminal justice reform advocacy organization, appointed by the Legislative Coordinating Council (LCC);

- One mental health professional, appointed by the Kansas Community Mental Health Association; and
- One member representative of community corrections, appointed by the Secretary of Corrections.

The Commission will also include the following non-voting members:

- The Attorney General, or the Attorney General's designee;
- The Secretary of Corrections, or the Secretary's designee; and
- The Executive Director of the Kansas Sentencing Commission, or the Director's designee.

The bill requires appointment of members of the Commission to be completed by August 1, 2019. The appointing authorities are required to provide notice of such appointments to the Office of Revisor of Statutes and the Kansas Legislative Research Department. The members of the Commission are required to elect officers from among its members as necessary to discharge its duties.

Commission Duties

The bill requires the Commission to:

- Analyze the sentencing guideline grids for drug and nondrug crimes and make recommendations for legislation that will ensure sentences are appropriate;
- Review the sentences imposed for criminal conduct to determine whether the sentences are proportionate to other sentences imposed for criminal offenses;
- Analyze diversion programs utilized throughout the state and make recommendations with respect to expanding diversion options and implementation of statewide diversion standards;
- Review the supervision levels and programming available for offenders who serve sentences for felony offenses on community supervision;
- Study specialty courts and make recommendations for the use of specialty courts throughout the state;
- Survey the availability of evidence-based programming for offenders provided both in correctional facilities and in the community, and make recommendations for changes in available programming;

- Study the policies of the Department of Corrections for placement of offenders within the correctional facility system and make recommendations with respect to specialty facilities, including, but not limited to, geriatric, healthcare, and substance abuse facilities;
- Evaluate existing information management data systems and make recommendations for improvements to data systems that will enhance the ability of criminal justice agencies to evaluate and monitor the efficacy of the criminal justice system at all points in the criminal justice process; and
- Study other matters as the Commission determines are appropriate and necessary to complete a thorough review of the criminal justice system.

The bill authorizes the Commission to organize and appoint task forces or subcommittees as necessary to discharge its duties, and the Commission may appoint ex officio, nonvoting members to such task forces or subcommittees.

Sentencing Proportionality

The bill directs the Commission to work with the Kansas Judicial Council, the Department of Corrections, and the Kansas Sentencing Commission to review studies and findings of the Sentencing Commission concerning proportionality of sentencing.

Testimony and Meetings

The bill directs the Commission to receive testimony from interested parties at public hearings to be held in various geographic areas of the state.

Reports to the Legislature

The bill requires the Commission to prepare and submit its interim report to the Legislature on or before December 1, 2019. The bill requires a final report and recommendations to be submitted to the Legislature on or before December 1, 2020.

Support Services and Compensation

The bill requires the Governor to appoint a facilitator to provide administrative assistance to develop a project plan and to assist the Commission in carrying out the duties of the Commission. The facilitator will work in collaboration with the Commission chairperson and staff of the Office of Revisor of Statutes and the Kansas Legislative Research Department. The facilitator shall not be a member of the Commission.

Staff of the Office of Revisor of Statutes and the Kansas Legislative Research Department are required to provide assistance as requested by the Commission, subject to approval by the LCC.

The facilitator, in coordination with the Office of Revisor of Statutes and the Kansas Legislative Research Department, is required to call the first meeting of the Commission to take place during August 2019.

If approved by the LCC, legislative members of the Commission attending meetings authorized by the Commission will be paid amounts for expenses, mileage, and subsistence pursuant to KSA 75-3223(e).

Kansas Closed Case Task Force

The bill creates the Kansas Closed Case Task Force (Task Force).

Task Force Members

The Task Force will be composed of the following 15 voting members:

- The chairpersons of the Senate and House Committees on Judiciary, who will serve as co-chairpersons of the Task Force;
- The ranking minority members of the Senate and House Committees on Judiciary;
- The Governor, or the Governor's designee;
- The Attorney General, or the Attorney General's designee;
- The Director of the KBI, or the Director's designee;
- The state combined DNA index system (CODIS) administrator, as designated by the Director of the KBI Forensic Science Laboratory;
- One sheriff designated by the Kansas Sheriffs' Association;
- One chief of police designated by the Kansas Association of Chiefs of Police;
- One prosecutor designated by the Kansas County and District Attorneys Association;
- The Executive Director of the State Board of Indigents' Defense Services, or the Executive Director's designee;
- The President of the Kansas Bar Association, or the President's designee;
- The Director of Victims Services of the Kansas Department of Corrections, or the Director's designee; and

- One representative of an organization that litigates claims of innocence, designated by the Governor.

The bill requires the above appointments to be made on or before September 1, 2019.

Task Force Meetings

The bill requires the Task Force to hold its initial meeting on or before October 1, 2019. The Task Force may meet in an open meeting at any time and place within Kansas upon the call of either co-chairperson. A majority of voting members will constitute a quorum, and any action shall be by motion adopted by a majority of the voting members present when there is a quorum.

Task Force Duties

The bill requires the Task Force, in consultation with practitioners and experts, to develop a plan to ensure uniform statewide policies and procedures that address, at a minimum:

- Timely receipt of data relating to hits to CODIS from the forensic laboratory;
- Directly connecting the data relating to hits to CODIS to the relevant case file;
- Proper policies and procedures to ensure all hits are accounted for and followed up;
- Procedures addressing how the key parties can conduct a reasonable and timely investigation into the significance of the hit; and
- Sharing the hits in data from solved and unsolved cases with other key parties, including the relevant prosecutors' offices, the original defense attorney and the last known attorney of record, crime victims and surviving relatives, and a local organization that litigates claims of innocence.

Plan, Report, and Expiration

The bill requires the Task Force to complete a plan for implementation of a protocol relating to hits to closed cases by October 1, 2020, including a mechanism to ensure uniform compliance at the local law enforcement agency level. The bill requires a report containing a plan for uniform statewide implementation of the protocol, including articulated benchmarks to facilitate and measure adoption, to be submitted to the Governor, Speaker of the House of Representatives, and President of the Senate, as well as posted on a public KBI website, on or before December 1, 2020.

The provisions of the bill related to the Task Force will expire on December 30, 2020.

Support Services and Compensation

Legislative members attending meetings authorized by the Task Force will be paid as specified in KSA 75-3223(e). Non-legislative members may be reimbursed by their appointing authority.

Effective Date

The bill takes effect upon publication in the *Kansas Register*.

TAXATION

Income and Sales Tax Provisions; HB 2033

HB 2033 clarifies the Finney County sales tax authority and the role of the Kansas Department of Revenue (KDOR) in implementing local sales taxes, implements two changes relating to expensing deductions for income tax purposes, makes several changes to Kansas income tax provisions in response to federal income tax changes enacted late in 2017, reduces the state sales tax rate under certain circumstances based on growth in compensating use tax receipts, and enacts a number of provisions in response to a U.S. Supreme Court decision authorizing states and local units to collect sales and compensating use taxes on certain transactions made through out-of-state retailers and marketplace facilitators who have an economic presence (nexus) in Kansas.

Finney County and Local Sales Tax Provisions

The bill retroactively ratifies the results of a 2017 election in Finney County seeking to increase that county's sales tax by 0.3 percent and clarifies the county had such rate authority. The tax imposed by the election is for purposes of an interlocal agreement between the county and Garden City regarding certain infrastructure upgrades and sunsets after 15 years.

The bill requires the Director of Taxation (Director) to confirm all provisions of law applicable to the authorization of local sales taxes have been followed prior to causing collections to commence. Should the Director discover a city or county has not complied with the authorization law after collections have commenced, collections will cease until such error has been remedied.

Expensing Deductions

The bill allows individual income taxpayers to begin claiming the expensing deduction (provided by KSA 2018 Supp. 79-32,143a) for the costs of placing certain tangible property and computer software into service in the state beginning in tax year 2019. A second change, also effective with tax year 2019, requires all taxpayers claiming the Kansas expensing deduction to offset the amount of federal expensing deduction claimed pursuant to Section 179 of the federal Internal Revenue Code (Code).

Individual Income Tax Itemized Deductions

The bill removes a restriction in prior law preventing Kansas individual income taxpayers from itemizing deductions for state income tax purposes unless they also itemize deductions for federal income tax purposes. Beginning with tax year 2019, the bill provides an option to take Kansas itemized deductions regardless of whether itemized deductions or the standard deduction are claimed for federal tax purposes.

Business Income Tax

The bill stipulates, for tax year 2017 and thereafter, Kansas will not tax deferred foreign income, defined to include income under Section 965(a) of the Code (certain repatriation income). The bill requires certain deductions used in determining federal adjusted gross income

for the repatriated income to be added back for Kansas income tax purposes prior to the determination of Kansas adjusted gross income.

For tax year 2018, 95 percent of global intangible low taxed income (GILTI) under Section 951A of the Code is deemed not subject to the Kansas income tax. All such income is exempt in tax year 2019 and thereafter. The bill requires certain related deductions claimed prior to the determination of federal adjusted gross income to be added back prior to the determination of Kansas adjusted gross income.

The bill further provides for tax year 2019 and thereafter certain capital contributions, as determined under Section 118 of the Code, are excluded from the Kansas income tax.

For tax year 2019 and thereafter, amounts attributable to the disallowance of Federal Deposit Insurance Corporation (FDIC) premiums paid by certain large financial institutions are excluded from Kansas income taxation.

Another provision allows Kansas income taxpayers to carry forward net operating losses for 20 years, beginning with such losses incurred in tax year 2018.

Specific language in the bill clarifies the retroactive application of several of these sections, effectively authorizing the filing of amended returns to claim refunds during the three-year statute of limitations available under current law.

Marketplace Facilitators and Use Tax

The bill enacts the Kansas Main Street Parity Act (KMSPA) designed to clarify the applicability of Kansas sales and use tax provisions to certain out-of-state retailers and marketplace facilitators. Generally, such entities will be required to collect tax, beginning October 1, 2019, if they have more than \$100,000 in total gross sales sourced to Kansas.

Specifically excluded from the definition of “marketplace facilitators” are platforms and forums providing certain Internet advertising services and those entities selling or charging for rooms, lodging, or accommodations for occupancy provided by hotels, motels, and inns.

Related to the KMSPA provisions, the bill repeals a requirement that Kansas individual income tax forms contain a line allowing taxpayers to voluntarily remit unpaid use taxes as part of their income tax reconciliation.

Sales Tax on Food

The bill provides for formulaic reductions in the state sales tax rate (currently 6.5 percent) on certain food and food ingredients beginning July 1, 2020, and on each January 1 thereafter based on annual growth in compensating use tax receipts of more than 3 percent above such receipts in FY 2018, which is established as the base year. The formulaic provisions require a certification to KDOR, which will then publish any food sales tax reduction that would have been triggered, rounded to the nearest 0.1 percent.

Food and food ingredients generally will include those substances sold for ingestion or chewing by humans and consumed for their taste or nutritional value, and specifically includes

soft drinks, candy, food sold through vending machines, and bottled water. Alcohol, tobacco, and dietary supplements are excluded from the food definition.

[Note: Based on use tax receipts in FY 2018 and on the April 18, 2019, Consensus Revenue Estimate, KDOR determined future use tax receipts, which will include additional revenues from the KMSPA, will not trigger a food tax reduction on July 1, 2020, but would be expected to reduce the food tax rate to 6.0 percent on January 1, 2021, and to 5.4 percent on January 1, 2022.]

The bill is expected to have the following impact on receipts.

	(Dollars in Millions)		
	FY 2020	FY 2021	FY 2022
Individual Income Tax Provisions			
Itemized Deduction Option	\$ (35.5)	\$ (60.3)	\$ (60.9)
Business Income Tax Provisions			
Repatriation	\$ (10.5)	\$ (0.4)	\$ (0.2)
GILTI	(61.7)	(24.7)	(24.2)
FDIC Premium Deductions	(1.9)	(1.3)	(1.3)
Capital Contributions	negligible	negligible	negligible
NOL Carryforwards – 20 years	0.0	0.0	0.0
Net Changes to Expensing	2.1	2.2	2.3
<i>Subtotal-Business Income Tax Provisions</i>	<u>\$ (72.0)</u>	<u>\$ (24.2)</u>	<u>\$ (23.4)</u>
Marketplace Facilitator Use Tax (all funds)			
State General Fund Share	\$ 18.2	\$ 27.8	\$ 28.2
State Highway Fund Share	3.5	5.3	5.4
<i>Subtotal-Marketplace Facilitator Use Tax</i>	<u>\$ 21.7</u>	<u>\$ 33.1</u>	<u>\$ 33.6</u>
Sales Tax Rate Decrease on Food (all funds)			
State General Fund Share	\$ 0.0	\$ (11.9)	\$ (30.9)
State Highway Fund Share	0.0	(2.3)	(5.9)
<i>Subtotal-Sales Tax Rate Decrease on Food</i>	<u>\$ 0.0</u>	<u>\$ (14.2)</u>	<u>\$ (36.8)</u>
TOTAL	<u>\$ (85.8)</u>	<u>\$ (65.6)</u>	<u>\$ (87.5)</u>
<i>Total State General Fund Share</i>	\$ (89.3)	\$ (68.6)	\$ (87.0)
<i>Total State Highway Fund Share</i>	3.5	3.0	(0.5)

Local County Sales Tax Authorizations; Creation of a New Sales Tax Exemption for Coins and Bullion; HB 2140

HB 2140 makes multiple changes in local sales tax authorization statutes and creates a sales tax exemption for certain coins and bullion.

County Sales Tax Provisions

Relative to multiple changes in local sales tax authorization statutes, the bill increases the maximum local sales tax rate that could be imposed by Thomas County from 1.50 percent to 1.75 percent, provided all taxes levied in excess of 1.00 percent remain earmarked for financing

a courthouse, jail, law enforcement center, or other county administrative facility. Any specially earmarked tax imposed by the bill sunsets when the project costs have been fully paid. An election is required for an increase in the current Thomas County sales tax, which is 1.50 percent.

The bill also extends from five years to ten years the sunset on any 0.5 percent tax imposed by Russell County for economic development initiatives or public infrastructure projects.

The bill renews sales tax authority for Jackson County to impose, subject to voter approval, a countywide sales tax of 0.4 percent to finance public infrastructure projects. Under continuing law, any such tax-imposed sunsets after seven years.

The bill allows Dickinson County to impose, subject to voter approval, a countywide sales tax of 0.5 percent to finance roadway construction and improvement. This authorization requires any such tax imposed to sunset after ten years, instead of five years as in prior law.

The bill extends the authority of Wabaunsee County to impose a 0.5 percent retail sales tax for an additional period not to exceed 15 years, subject to voter approval.

Additionally, the bill retroactively ratifies the results of a 2017 election in Finney County that increased that county's tax by 0.3 percent. The tax imposed by the election would be for purposes of an interlocal agreement between the county and Garden City regarding certain infrastructure upgrades and will sunset after 15 years.

The bill requires the Director of Taxation (Director) to confirm all provisions of law applicable to the authorization of local sales taxes have been followed prior to causing collections to commence. Should the Director discover a city or county did not comply with the authorization law after collections have commenced, collections must cease until the error has been remedied.

Additional Sales Tax Exemption

The bill provides a sales tax exemption for all sales of gold or silver coins and gold, silver, platinum, or palladium bullion.

TRANSPORTATION AND MOTOR VEHICLES

Vehicle Lights; Stopping for On-track Equipment; Sun Screening Material; Operation of All-terrain Vehicles; Regulation of E-scooters; SB 63

SB 63 amends the Uniform Act Regulating Traffic on Highways (Uniform Act) regarding use of certain lights by transportation network company drivers, driver responsibilities when on-track equipment is nearby, sun screening material on vehicle windows, operation of all-terrain vehicles (ATVs) and work-site utility vehicles, and regulation of electric-assisted scooters (e-scooters).

Transportation Network Company Lights

The bill adds to the Uniform Act authorization for the governing body of a city to adopt an ordinance to allow a driver for a transportation network company, when the driver is logged on to the transportation network company's digital network, to equip the vehicle with a device capable of displaying light visible from directly in front of the center of the vehicle. The bill specifies the lighting device could display steady light and light of any color except red. Terms used in the bill have the meanings provided in the Kansas Transportation Network Company Services Act.

The bill amends provisions prohibiting lights visible from the center front on vehicles to authorize lights meeting the provisions added by the bill (as described above).

Stopping When On-track Equipment Is Nearby

The bill requires a driver to stop a vehicle at least 15 feet, but not more than 50 feet, before crossing a railroad track under certain circumstances if other on-track equipment, in addition to a railroad train as in continuing law, is nearby. The circumstances under which such a stop is required are the same as those for which a stop is required for a railroad train:

- A clearly visible electric or mechanical signal device gives warning of the approach of the train or other on-track equipment;
- A crossing gate is lowered or when a human flagman gives a signal that a train or on-track equipment is approaching or passing;
- The railroad train or on-track equipment approaching within approximately 1,500 feet emits a signal audible from such distance and is, by reason of speed or proximity, an immediate hazard; or
- The approaching railroad train or on-track equipment is plainly visible and is in hazardous proximity to such crossing.

Sun Screening Material on Vehicle Windows

The bill authorizes the installation of a clear, colorless, and transparent material on a vehicle's windshield, side wings, side windows, or rear windows if the following conditions are met:

- The material has a minimum visible light transmittance of 78 percent;
- The window glazing with the applied material meets federal motor vehicle safety standards regarding window glazing materials;
- The material is designed and manufactured to block the sun's ultraviolet A or B rays by enhancing the vehicle's existing window glass;
- The driver or occupant of the vehicle possesses a signed statement from a licensed physician or optometrist that:
 - Identifies the driver or occupant; and
 - States the installation of the material on the vehicle windows is, in the physician's or optometrist's professional opinion, necessary for the safety or health of the driver or occupant; and
- The material is removed or replaced if it tears, bubbles, or otherwise prohibits clear vision through the window.

The bill states any driver who is issued a citation for failure to possess a signed statement from a licensed physician or a licensed optometrist (as outlined above) has 60 days to either produce such a signed statement in court or remove the material. If the driver does either of those things within 60 days, the bill requires the court to dismiss the citation.

The bill also amends an exclusion for a law enforcement motor vehicle from a requirement that light transmission through vehicle windows not be less than 35 percent to remove a requirement the law enforcement vehicle be clearly identified as such on the outside of the vehicle.

Operation of All-terrain Vehicles and Work-site Utility Vehicles

The bill authorizes operation of ATVs and work-site utility vehicles to cross a federal highway or a state highway.

The bill also authorizes a person engaged in agricultural purposes to operate an ATV or work-site utility vehicle on a federal highway or state highway outside the corporate limits of any city under the following conditions:

- The operator must be a licensed driver operating within the restrictions of the operator's license;

- The posted speed limit on the federal highway or state highway must be 65 miles per hour or less; and
- The vehicle must be operated as near to the right side of the roadway as practicable, except when making or preparing to make a left turn.

Regulation of Electric-assisted Scooters

The bill regulates the use of e-scooters, which are defined by the bill as every self-propelled vehicle having at least two wheels in contact with the ground, an electric motor, handlebars, a brake, and a deck designed to be stood upon while riding.

The bill amends the Uniform Act to prohibit any person from operating an e-scooter on any interstate highway, federal highway, or state highway. The bill permits the governing body of a city or county to adopt an ordinance or resolution further restricting or prohibiting the use of e-scooters on public highways, streets, or sidewalks within such cities or counties. The bill applies traffic regulations applicable to bicycles to e-scooters. The bill does not prohibit e-scooters from crossing a federal or state highway.

The bill adds a fine of \$45 for unlawful operation of an e-scooter.

The bill also includes the new definition of e-scooter in vehicle registration statutes. The bill excludes e-scooters from registration.

**NUMERICAL INDEX OF BILLS
House Bills and Resolutions**

<u>Bill</u>	<u>Page</u>	<u>Bill</u>	<u>Page</u>
HB 2033.....	38	HB 2223.....	11
HB 2140.....	40	HB 2248.....	16
HB 2203.....	20	HB 2290.....	27

**NUMERICAL INDEX OF BILLS
Senate Bills and Resolutions**

<u>Bill</u>	<u>Page</u>	<u>Bill</u>	<u>Page</u>
SB 18.....	5	SB 53.....	21
SB 20.....	16	SB 63.....	42
House Sub. for SB 25.....	23	SB 67.....	1
SB 28.....	14		