

**SUPPLEMENT II TO
PRELIMINARY SUMMARY OF LEGISLATION
2022 KANSAS LEGISLATURE**

KLRD

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analysis for the Kansas Legislature*

This publication contains summaries of selected bills passed by the Legislature from April 25, 2022, through adjournment of the April 28 daily session (HCR 5037). Bills that have not yet been signed by the Governor are included.

The first Preliminary Summary containing summaries of major bills that were enacted through 12:00 noon, March 23, was distributed on March 28, 2022. An updated supplement to the first Preliminary Summary was distributed on April 8, 2022. Summaries of bills passed during the Veto Session beginning May 23 and legislative action on Sine Die will be included in *The Summary of Legislation*.

Highlights, which summarizes key features of major legislation, will be prepared and mailed to legislators as soon as possible after the Session. *The Summary of Legislation*, which accounts for all bills passed by the 2022 Legislature, will be distributed at a later date. These documents will be available on the Kansas Legislative Research Department's website: kslegresearch.org.

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AGRICULTURE AND NATURAL RESOURCES

Meat Analogs; House Sub. for SB 261

House Sub. for SB 261 prohibits the use of identifiable meat terms on the labels of meat analogs when the labels do not include proper qualifying language to indicate that such products do not contain meat. The bill also makes numerous changes to the definitions section of the Kansas Food, Drug, and Cosmetic Act by amending and adding definitions.

Definitions

New Definitions

The bill adds definitions for “meat analog” and “identifiable meat term.”

- “Meat analog” is defined as any food that approximates the aesthetic qualities, primarily texture, flavor and appearance, or the chemical characteristics of any specific type of meat, meat food product, poultry product, or poultry food product, but does not contain any meat, meat food product, poultry product, or poultry food product.
- “Identifiable meat term” is defined as including, but not being limited to, terms such as meat, beef, pork, poultry, chicken, turkey, lamb, goat, jerky, steak, hamburger, burger, ribs, roast, bacon, bratwurst, hot dog, ham, sausage, tenderloin, wings, breast, and other terms for food that contain any meat, meat food product, poultry product, or poultry food product.

Codification of Federal Definitions

The bill defines “meat,” “meat food product,” “poultry product,” and “poultry food product” as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Amended Definitions

The bill amends the definition of “imitation” under the Kansas Food, Drug, and Cosmetic Act to align it with the more specific definition of “imitation” under the Federal Food, Drug, and Cosmetic Act.

Misbranding

The bill requires a food to be deemed to be misbranded if it is:

- A “meat analog”;
- Its labeling utilizes an identifiable meat term, as defined by the bill; and

- The labeling does not have a disclaimer in a prominent and conspicuous font size, in close proximity to the identifiable meat term, stating one of the following:
 - This product does not contain meat;
 - Meatless;
 - Meat-free;
 - Vegan;
 - Veggie;
 - Vegetarian;
 - Vegetable;
 - Plant-based; or
 - A disclaimer equivalent to these terms, as determined by the Secretary of Agriculture through rules and regulations.

The misbranding guidelines do not apply to menus or menu boards. The guidelines also do not apply to food that can be defined as “imitation” under the Federal Food, Drug, and Cosmetic Act (e.g., imitation crab meat).

Severability Clause

The bill adds a severability clause that states if any provision of the law regarding misbranded food is held to be invalid or unconstitutional, the presumption will be that the remainder of the statute section was enacted with valid and constitutional provisions.

CORRECTIONS AND JUVENILE JUSTICE

Kansas Offender Registration Act Amendments; SB 366

SB 366 creates a mechanism to seek relief from the Kansas Offender Registration Act (KORA) for certain drug offenders. It also requires KORA registration for certain convictions of breach of privacy and for convictions of internet trading in child pornography.

Relief from KORA Registration for Certain Drug Offenders

The bill allows a drug offender to file a verified petition for relief from registration requirements if the offender has registered for a period of at least five years after parole, discharge, release, conviction, or adjudication. Time spent in incarceration, or time during which the offender does not substantially comply with KORA requirements, does not count toward the five-year duration of the registration period.

An offender who must register due to an out-of-state conviction or adjudication is not eligible to apply for relief under the bill unless that jurisdiction no longer requires the offender to file.

The bill outlines requirements for the contents of the petition and requires the Judicial Council to develop a petition form for use under the bill's provisions. The bill includes filing, notice, hearing, and other procedural requirements for the petition, including notification to any living victims of the offense requiring registration. The bill allows the court to require a risk-assessment of the registrant and provides the process for that risk-assessment.

The bill requires the court to order relief from registration requirements if the offender shows by clear and convincing evidence that:

- The offender has not been convicted or adjudicated of a felony, other than a violation of KORA, within the five years immediately preceding the filing of the petition, and no proceedings involving any such felony are presently pending or being instituted against the offender;
- The offender's circumstances, behavior, and treatment history demonstrate that the offender is sufficiently rehabilitated to warrant relief; and
- Registration of the offender is no longer necessary to promote public safety.

If the court denies a petition, the bill prohibits the offender from filing another petition until three years have elapsed, unless the court orders a shorter time period.

The bill requires successful petitioners to be removed from the offender registry and the Kansas Bureau of Investigation website, and relieves such petitioners from compliance with registration requirements.

The bill creates an exception to allow offenders who have successfully been removed from the offender registry to petition for expungement of that offense and allows an offender to

combine a petition for relief from registration requirements with a petition for expungement, if the offense is otherwise eligible for expungement.

Offender Registration for Breach of Privacy and Internet Trading in Child Pornography

The bill amends the definition of “sex offender” in the KORA to include any person who is convicted of breach of privacy by the following means:

- Installing or using a concealed camcorder, motion picture camera, or photographic camera of any type to secretly videotape, film, photograph, or record, by electronic or other means, another identifiable person under or through the clothing being worn by that other person or another identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy;
- Disseminating or permitting the dissemination of any videotape, photograph, film, or image obtained in violation of the above provision; or
- Disseminating any videotape, photograph, film, or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten, or intimidate such identifiable person, and such identifiable person did not consent to such dissemination.

The bill specifies the definition of “offender” in KORA (to require registration) would not include a person adjudicated as a juvenile offender for the above acts.

The bill adds convictions of breach of privacy under the above provisions to those crimes for which an offender must register under KORA for 15 years.

The bill amends the definition of “sexually violent crime” in KORA to include the crimes of internet trading in child pornography and aggravated internet trading in child pornography.

The bill requires an offender to register under KORA for a period of 25 years if convicted of internet trading in child pornography or aggravated internet trading in child pornography if the victim is more than 14 years of age but less than 18 years of age. The bill requires an offender to register under KORA for such offender’s lifetime if convicted of aggravated internet trading in child pornography if the victim is less than 14 years of age.

EDUCATION

Computer Science; Career and Technical Education; Student Privacy; Sub. for HB 2466

Sub. for HB 2466 enacts the Promoting Advancement in Computing Knowledge (PACK) Act relating to computer science courses in secondary schools, requires the survey and establishment of a career technical education pilot program, and exempts national assessment providers from the Student Online Personal Privacy Act.

PACK Act

The PACK Act requires, beginning in the 2023-2024 school year, each secondary school operated by a school district to offer at least one computer science course, or submit to the State Board of Education (State Board) a plan describing how the district intends to offer a computer science course and in which school year such course will be offered. Such courses are required to:

- Be high quality;
- Meet or exceed the Kansas Model Standards for Computer Science as established by the State Board; and
- Be made available in a traditional classroom setting, a blended learning environment, or an online-based or other technology-based format that is tailored to meet the needs of each high school and participating student.

The bill requires the State Board, on or before January 15, 2023, and each January 15 thereafter, to prepare and submit a report to the Governor and Legislature on the progress made pursuant to the PACK Act. Such report shall include, but is not limited to, the following information for the immediately preceding school year:

- Number of secondary schools that offered one or more computer science courses;
- Number of high-quality, professional learning providers that received grants from the State Board under the bill;
- Number of teachers prepared by high-quality professional learning providers;
- Number of teachers teaching computer science courses compared to number of teachers prepared by learning providers; and
- Number of students reached by high-quality learning providers.

The bill sunsets the reporting requirements on July 1, 2025.

Computer Science Pre-service Educator Program

The Computer Science Pre-service Educator Program (Program) authorizes the Kansas Board of Regents (KBOR) to provide scholarships, not to exceed \$1,000 for each recipient, to pre-service teachers working toward a degree in elementary or secondary education and to licensed teachers who complete one course in computer science while enrolled in a state educational institution, community college, or certain not-for-profit institution of postsecondary education. The bill requires the KBOR to prioritize for receipt of scholarships those candidates from underrepresented groups and those candidates who agree to teach computer science in rural schools and in schools with higher percentages of students from underrepresented groups.

The bill authorizes the KBOR to coordinate with postsecondary educational institutions to develop pathways in computer science education for pre-service teachers to obtain a certification to teach computer science. The bill requires the KBOR to adopt rules and regulations necessary to implement the Program, including requirements for scholarship eligibility and applications.

State Board of Education Grants

The bill also authorizes the State Board, subject to appropriations, to award grants to high-quality professional learning providers to develop and implement professional development programs for teachers to teach computer science courses. The bill requires such a learning provider to submit an application to the State Board for receipt of a grant. If a grant is received, the learning provider must use it for one of the following purposes:

- Providing high-quality professional learning;
- Credentialing for computer science teachers;
- Supporting computer science professional learning;
- Creating resources to support implementation of the bill;
- Student recruitment; or
- Development of teacher preparation programs.

The bill requires any such learning provider that receives a grant to provide an annual report to the State Board that includes certain information. The bill requires the State Board to prioritize for the receipt of grants:

- School districts that work in partnership with providers of high-quality professional learning;
- Proposals that describe strategies to enroll female students, students from marginalized racial and ethnic groups underrepresented in computer science, students eligible for free and reduced-price meals, students with disabilities, and students who are English language learners; and
- Proposals from rural or urban areas that experience difficulties providing computer science offerings.

Career Technical Education Survey and Pilot Program

The bill requires the Kansas State Department of Education to conduct a survey of high-value credential and standard career and technical education courses offered to students enrolled in public high schools for the purpose of determining the needs for secondary career technical education credentialing. The survey will determine the following:

- Career and technical education pathway courses offered for high school credit;
- Concurrent enrollment partnership and dual enrollment courses offered for high school and college credit;
- What concurrent enrollment partnership and dual enrollment courses are offered by high schools, community colleges, or technical colleges;
- What career and technical education courses are offered by high schools that will not lead to credentialing;
- The number of students with documented accommodations who are not enrolled in a gifted program;
- First-time pass rate of students who have earned approved standard career and technical education credentials in the prior three years;
- First-time pass rate of students who have earned approved high-value credentials in the prior three years;
- Credentials earned in the prior three years and number of students who earned such credentials; and
- Amounts paid by school districts for students to take credential exams.

The Kansas State Department of Education is required to compile the results of said survey and present the results to the House Committee on Education and the Senate Committee on Education on or before January 15, 2023.

The bill requires the State Board, on or before July 31, 2023, and on each July 31 thereafter, to review and approve a list of high-value industry-recognized credentials and a list of standard industry-recognized credentials. The bill requires the list to be prepared by a committee established by the State Board that includes representatives from the following organizations:

- Association of Community College Trustees;
- Kansas Technical Education Authority;
- Kansas Technical College Association; and
- Kansas Association of School Boards.

The bill requires the State Board to establish the Secondary Career Technical Education Credentialing and Student Transitioning to Employment Success Pilot Program for the 2022-

2023 academic school year that targets high school students with documented accommodations who are not enrolled in a gifted program.

For such students located within the Washburn Institute of Technology service area, the following shall occur:

- Washburn Institute of Technology will receive a \$20,000 stipend for additional counseling services for eligible students and additional coordination services with participating high schools;
- Each participating high school will receive a \$500 stipend for additional student counseling service and coordination with Washburn Institute of Technology; and
- Participating high schools will be reimbursed for the cost of the credential exam for any participating student who takes a credential exam.

The bill requires a preliminary report from participating school districts and the Washburn Institute of Technology to be presented to the House Committee on Education and the Senate Committee on Education on or before February 1, 2023. The bill lists elements the report must include.

Student Online Personal Protection Act

The bill amends the Student Online Personal Protection Act to exclude national assessment providers that administer college and career readiness assessments from the definition of “operator.” The bill permits a national assessment provider to administer a college and career readiness assessment questionnaire or survey to any student enrolled in grades K-12 without prior written permission from such student’s parent or guardian.

K-12 Education Appropriations and Other Provisions; Senate Sub. for HB 2567

Senate Sub. for HB 2567 makes appropriations for the Kansas Department of Education (KSDE) for FY 2022, FY 2023, and FY 2024, makes adjustments to the Kansas School Equity and Enhancement Act (KSEEA), and amends various provisions of law related to K-12 Education.

New Sections 1-4 and Sections 28-33 of the bill will be in effect upon publication in the *Kansas Register*; sections 6, 8, 9, 13, 15-18, and 35-38 will be in effect beginning July 1, 2023; and sections 5, 7, 10-12, 14, 19-27, and 34 will be in effect beginning July 1, 2022.

The bill:

- Makes appropriations for the KSDE for FY 2022, FY 2023, and FY 2024 (Sections 1-4);
- Establishes the Every Child Can Read Act (New Sections 5 and 6);

- Authorizes boards of education of school districts to allow students enrolled in grades 6 through 12 to earn course credits through alternative educational opportunities (New Section 7);
- Establishes a transfer system for nonresident students between unified school districts based upon the student capacity of each unified school district (Sections 8, 9, 13, and 15-18);
- Amends the Johnson County Research Triangle Authority Act (Section 10);
- Amends reporting requirements for the Kansas State High School Activities Association (KSHSAA) (Section 11);
- Requires local school boards to annually review state academic assessments and utilize such assessments and the school district's building needs assessment when reviewing and approving the school district's budget (Section 12);
- Amends the compulsory school attendance statute to consider students enrolled in a combination of public and private school during the required periods of time as compliant with compulsory attendance requirements (Section 14);
- Amends the Virtual School Act to prohibit any virtual school from offering or providing any financial incentive for a student to enroll in a virtual school (Section 19);
- Amends the Virtual School Act to require that a virtual school's graduation rate shall include only those students who enrolled in a virtual school with sufficient credits to be expected to graduate in the same school year as such student's cohort group (Section 19);
- Amends the virtual school finance system to provide funding on a per-course basis for a student who is 19 years of age and younger and meets certain other requirements (Section 20);
- Amends the Tax Credit for Low Income Students Scholarship Program (Section 21);
- Amends the calculation of local foundation aid within the KSEEA by removing federal impact aid from the formula and amend the calculation of capital improvement state aid (Sections 22 and 23);
- Amends the school and school district accountability reports law and requires KSDE to prepare and submit to the Governor and the Legislature a summary report regarding student achievement (Section 24);
- Establishes the Capital Improvement State Aid Fund and identifies transfers as revenue transfers from the State General Fund (SGF) (Sections 25 and 26);

- Amends the Kansas Promise Scholarship Act (Sections 28-33);
- Amends parental notification and consent requirements regarding nonacademic tests, questionnaires, surveys, or examinations regarding a student's personal and private attitudes, values, beliefs, or practices (Section 27); and
- Establishes educational benefits for dependents or spouses of certain first responders and military personnel (Section 34).

Appropriations for FY 2022, FY 2023, and FY 2024 (New Sections 1-3)

FY 2022 (New Section 1)

The bill appropriates the following from the SGF in FY 2022 for KSDE:

- \$178,986 for the Education Superhighway; and
- \$10.3 million for Supplemental State Aid.

The bill modifies the SGF appropriation, in FY 2022, for KSDE. The bill lapses the following moneys appropriated from the SGF in FY 2022:

- \$25,749 for operating expenditures;
- \$7.8 million for the Kansas Public Employees Retirement System (KPERS) non-Unified School Districts (USDs);
- \$24.0 million for the KPERS-USDs; and
- \$58.6 million for State Foundation Aid in FY 2022.

FY 2023 (New Sections 2 and 3)

The bill appropriates \$6.4 billion, including \$4.2 billion SGF, for FY 2023 for KSDE. This includes \$5.3 billion, including \$4.2 billion SGF, for the major categories of school finance, KPERS-USDs, and KPERS-non-USDs. Appropriations from the SGF include the following:

- \$14.2 million for operating expenditures;
- \$157.3 million for State Foundation Aid;
- \$54.0 million for Supplemental State Aid;
- \$80,000 for Center for READING;

- \$37.7 million for KPERS-non-USDs;
- \$520.8 million for KPERS-USDs;
- \$2.8 million for the ACT and WorkKeys Assessments Program;
- \$10.5 million for the Mental Health Intervention Team Pilot Program;
- \$300,000 for the Juvenile Transitional Crisis Center Pilot;
- \$67,700 for Education Commission of the States dues;
- \$10,000 for the School Safety Hotline;
- \$5.1 million for the School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- \$2.5 million for School Food Assistance;
- \$1.3 million for the Mentor Teacher Program;
- \$110,000 for Educable Deaf-blind and Severely Handicapped Children's Programs Aid;
- \$520.4 million for Special Education Services Aid;
- \$360,693 for Governor's Teaching Excellence Scholarships and Awards;
- \$1.8 million for Professional Development State Aid;
- \$4.0 million for a virtual math program (SGF moneys would lapse if American Rescue Plan Act [ARPA] funds are available);
- \$1.0 million for Computer Science Education Advancement Grants;
- \$40,000 for the Computer Technical Education Pilot;
- \$1.5 million for Career and Technical Education Transportation; and
- \$4.0 million for School Safety and Security Grants.

The bill also appropriates \$1.0 million from federal ARPA funds through the Office of the Governor for School Safety and Security Grants for FY 2023. The bill allows school districts to expend school safety and security grants for salaries and wages related to newly created school resource officer positions in addition to existing allowable purposes.

The bill also appropriates funding from several no-limit special revenue funds, including federal funds, and fee funds. The bill appropriates the following from the Children's Initiatives Fund (CIF):

- \$375,000 for the Children's Cabinet Accountability Fund;
- \$20.7 million for CIF grants;
- \$8.4 million for the Parent Education Program, also known as Parents as Teachers;
- \$4.2 million for the Pre-K Pilot Program;
- \$1.4 million for Early Childhood Infrastructure; and
- \$500,000 for the Dolly Parton Imagination Library.

The bill provides for the following transfers:

- \$50,000 on July 1, 2022, or as soon as moneys are available, from the Family and Children Trust Account of the Family and Children Investment Fund of the KSDE to the Communities in Schools Program Fund of the KSDE;
- \$550,000 on March 30, 2023, and \$550,000 on June 30, 2023, from the State Safety Fund to the SGF to reimburse costs associated with services provided by other state agencies on behalf of KSDE;
- \$73,750, quarterly, from the State Highway Fund of the Department of Transportation to the School Bus Safety Fund of KSDE;
- An amount certified by the Commissioner of Education from the Motorcycle Safety Fund of the KSDE to the Motorcycle Safety Fund of the State Board of Regents, to cover costs of driver's license programs conducted by community colleges; and
- \$70,000 from the Universal Service Administrative Company E-rate program federal fund of the State Board of Regents to the Education Technology Coordinator Fund of KSDE.

The bill appropriates \$260,535 from the Kansas Endowment for Youth Fund for the Children's Cabinet administration.

The bill also authorizes the Commissioner of Education to transfer any part of an SGF appropriation for KSDE to another SGF appropriation in KSDE for FY 2023.

The bill appropriates \$41.4 million from the Expanded Lottery Act Revenues Fund for KPERS-non-USDs.

The bill appropriates \$4.0 million from federal ARPA funds in FY 2023 through the Office of the Governor for KSDE to implement a virtual math program to be made available to all school districts. The bill specifies that KSDE is required to recommend use of the virtual math program to all school districts. The bill also states that if ARPA funds are not available, the virtual math program will be funded with SGF moneys.

The bill requires the virtual math program to be customized to Kansas curriculum standards, be evidence-based, not impose any fee upon students, provide tutoring in multiple languages, provide professional development for the implementation of the program, and have been implemented in other states over the previous eight fiscal years.

All districts implementing a virtual math program are required to track and report to KSDE twice during school year 2022-2023, as determined by KSDE, the number of attendance centers and students using a virtual math program, the number of students not using a virtual math program, the number of teachers participating in professional development provided by a virtual math program, and the effect of the program on student academic proficiency. KSDE is required to submit a summary report to the House Committee on K-12 Education Budget and the Senate Committee on Education including a list of school districts and attendance centers that are using a virtual math program, a list of school districts and attendance centers not using a virtual math program, and a comparison between low-usage and high-usage school districts and attendance centers.

The bill also increases virtual state aid from \$5,000 per full-time pupil to \$5,600 per full-time pupil and increases virtual state aid from \$1,700 per part-time pupil to \$2,800 per part-time pupil, beginning in FY 2023.

FY 2024 (New Section 4)

For FY 2024, the bill appropriates from the SGF \$2.6 billion for State Foundation Aid and \$568.2 million for Supplemental State Aid. The bill also authorizes expenditures from the State School District Finance Fund and the Mineral Production Education Fund. The bill appropriates \$2.0 million SGF for FY 2024 for the virtual math program.

Every Child Can Read Act (New Sections 5 and 6)

Purpose (New Section 5)

The bill provides a legislative statement of intent regarding the promotion of academic achievement in schools.

Every Child Can Read Act (New Section 6)

The bill enacts the Every Child Can Read Act to promote third-grade literacy initiatives. This section requires the board of education of each school district to provide opportunities for students to participate in targeted educational interventions. The bill requires literacy to be attained through the Science of Reading, evidence-based reading instruction, and necessary competencies to attain proficiency. Schools are required to follow and use the framework of KSDE's Dyslexia Handbook.

Each school district must ensure that the competencies are achieved through literacy instruction in:

- Phonics;
- Vocabulary development;
- Reading fluency; and
- Reading comprehension.

The bill requires each school district to measure student achievement through state assessments and through other universal screening and assessment tools that are approved by the local board of education, or by KSDE. School districts must provide targeted and tiered interventions designed to match a student's individual needs through additional contact hours with the student, which may include additional one-on-one instruction, small group instruction, tutoring, or summer school.

Additionally, school districts must ensure that each third-grade teacher communicates with the parents of each third-grade student at least once each semester regarding the student's individual deficiencies and any recommended interventions for such student. Such teacher- to-parent communication must provide the parent with:

- A summary of the Every Child Can Read Act and the goals of the Act;
- The student's assessment data that pertains to literacy;
- Recommended interventions for the student; and
- How the school district tracks outcomes of those interventions.

The bill also requires each school district to annually report information regarding the school district's implementation of the Every Child Can Read Act to KSDE including:

- The school district's interventions and outcomes of such interventions;
- The number of third-grade students in the district;
- The screening and assessment data that the district is using to evaluate student progress in literacy; and
- The percentage of all students and student subgroups who are proficient, moving towards proficiency, or deficient.

The bill requires KSDE to annually submit a summary of such reports to the Governor and Legislature.

Alternative Educational Opportunities (New Section 7)

The bill authorizes school district boards of education to adopt policies to allow students enrolled in grades 6 through 12 to earn course credits through alternative educational opportunities with sponsoring entities. The bill defines the following terms:

- "Alternative educational opportunity" means the instruction that primarily occurs outside the classroom with a sponsoring entity; and

- “Sponsoring entity” means a business, not-for-profit organization, nonprofit organization, trade association, parent of a student, teacher, or administrator that partners with a school district to provide an alternative educational opportunity to students.

Alternative Education Policy

The bill requires a school district’s policy to establish the following:

- Eligibility requirements for sponsoring entities;
- Requirements for the provision of alternative educational opportunities by sponsoring entities;
- Procedures for a sponsoring entity to submit a proposal to the school district to provide an additional educational opportunity to students;
- Criteria the school district will use to evaluate proposals; and
- Course credit that may be earned through the alternative educational opportunity.

Alternative Education Proposals

The bill authorizes a school district to accept a proposal from a sponsoring entity if the alternative education opportunity:

- Provides an additional learning opportunity through a work-based, pre-apprenticeship, apprenticeship, internship, industry certification, or community program; and
- Is approved by the State Board of Education (State Board) as an alternative educational opportunity; or
- Complies with the school district policies adopted pursuant to the program; and
- Is managed and directed by a licensed teacher employed by the school district.

State Board of Education

The bill allows a sponsoring entity to petition the State Board to approve an alternative education opportunity that is provided through such sponsoring entity if such alternative education opportunity provided through such sponsoring entity is generally applicable on a statewide or regional basis across multiple school districts. The State Board is required to approve or deny each petition proposing an alternative educational opportunity within 90 days of receipt of such proposal.

If the State Board denies the proposal, it must provide the sponsoring entity with the reasons for such denial. If the State Board approves such proposal, any school district is permitted to implement the alternative education opportunity. The State Board may revoke any such approved proposal if it determines that the sponsoring entity fails to comply with the requirements of the program.

Reporting Requirement

The bill requires school districts to report information to KSDE on the alternative educational opportunities that are authorized in the school district, the names of the sponsoring entities, the number of students participating, and the number of credits earned.

Open Enrollment (New Sections 8-9, Section 13, and Sections 15-18)

Definitions

The bill defines various terms including, but not limited to, “homeless child,” “nonresident student,” “receiving school district,” and “sending school district.”

Transfer Policy

The bill requires each board of education (board) of a school district (district) to adopt a policy to determine the capacity of the district to accept nonresident students in each grade level on or before January 1, 2024.

The bill requires the policies to be consistent with the provisions of the bill and clearly specify reasons for the denial of continued enrollment by a nonresident student. Such reasons for denial could include, but are not limited to, elements such as a nonresident student’s history of school absenteeism, suspensions, or expulsions.

Prior to adopting such policy, the board must hold a hearing. The board must provide notice of the hearing, to include the time, date, and place of the public hearing to be held on the proposed policy. The bill requires the notice to be published at least once each week for two consecutive weeks in a newspaper of general circulation in the school district and posted on the school district’s website. A representative of the board must present the board’s proposal for the policy at the hearing, and the board must hear testimony regarding the proposed policy. After consideration of the testimony and evidence presented or submitted at such public hearing, the board will determine whether to adopt the policy or revise the proposed policy at a subsequent public meeting of the board.

The bill requires policies adopted by the board pursuant to this bill to be published on the district’s website.

Public School Eligibility

The bill amends law regarding where students may attend public school by no longer requiring a student’s resident school district to have an agreement with the nonresident school district where the student wishes to attend.

Open Enrollment Procedure

The bill authorizes, beginning in the 2024–2025 school year, any student eligible to attend a public school within the state to attend a school within a district regardless of whether the student is a resident of the district, if the nonresident district has open capacity.

Capacity

The bill requires capacity to be determined as the classroom student-teacher ratio in each grade for grades kindergarten through 8 and the student-teacher ratio for each school building or program in each school building for grades 9 through 12.

On or before May 1 of each year, each local board must determine the following for each grade level in each school building within the district:

- Capacity of the district;
- Number of students expected to attend school in the district; and
- Number of open seats available for nonresident students.

The bill requires the number of open seats available for nonresident students to be published on the district's website by June 1 of each year for each grade level at each school building.

Transfer Application Process

The bill allows students to submit applications to nonresident school districts between June 1 and June 30 each year for the fall semester.

If the number of applications to a district is equal to or less than the available capacity for a grade level in a district, all applicants must be accepted for enrollment within the district. If the number of applications exceeds the capacity for a grade level within the district, the district will randomly select nonresident students via a lottery process on or before July 15 of each year.

Student Denial

The bill requires any district denying the continued enrollment of a nonresident student or denying the acceptance of a new nonresident student to notify the student's parent or guardian of the reason for denial. Reasons for such denial can include, but are not limited to, elements such as a nonresident student's history of school absenteeism, suspensions, or expulsions.

[*Note:* Students can be denied acceptance to a nonresident district only if there is no capacity or they were not selected during the lottery process.]

Nonresident Enrollment Priority and Exceptions

The bill provides priority enrollment to the siblings of an accepted, nonresident student during the initial acceptance or at any other time the district considers applications. Siblings are not subject to the open seat lottery.

The bill allows any student in the custody of the Department for Children and Families (DCF) living in the home of a nonresident student to attend school in the receiving district.

Prohibitions

The bill prohibits districts from charging tuition or fees to nonresident students except for fees otherwise charged to every student enrolled and attending in the district. Districts are also prohibited from admitting or denying students based upon the following criteria:

- Ethnicity;
- National origin;
- Gender;
- Income level;
- Disabling condition;
- Proficiency in the English language;
- Measure of achievement;
- Aptitude; or
- Athletic ability.

Continued Enrollment

The bill states that any nonresident student who has been accepted for enrollment and attendance at a receiving district could continue at the district until the student graduates from high school or is no longer in good standing based upon the nonresident transfer policy of the district.

The bill reaffirms that students may enroll at any time in the district in which the student resides.

Transportation

The bill does not require a district to provide transportation to nonresident students; however, if space is available on district transportation vehicles, a district can provide nonresident students with a bus stop within the district where transportation can be provided to and from school for nonresident students.

Kansas State High School Activities Association

The bill states that nonresident students who transfer would be subject to policies and requirements of the KSHSAA.

Reporting

The bill requires boards to submit the number of nonresident student transfers approved and denied, and the reason for the denials, to KSDE. Such numbers will be compiled by KSDE and will be reported on the KSDE website and provided to the Legislative Division of Post Audit (LPA).

The bill requires KSDE to audit a district's nonresident student capacity and enrollment during a district's annual enrollment audit.

In calendar year 2027, the bill requires the Legislative Post Audit Committee to direct LPA to conduct an audit of nonresident student transfers. The bill requires the audit to be presented to the Legislative Post Audit Committee on or before January 15, 2028, and then presented to the House Committee on K-12 Education Budget and the Senate Committee on Education.

The bill also clarifies open enrollment will not apply to school districts on military bases. [Note: This provision currently applies only to USD 207, Fort Leavenworth.]

The bill also makes corresponding changes to other sections of law.

Johnson County Research Triangle (Section 10)

The bill authorizes use of funds remitted to the Johnson County Research Triangle to be used for other undergraduate and graduate programs at the Johnson County location of Kansas State University that have been both approved by the Johnson County Research Triangle Authority Board of Directors and do not include either pre-baccalaureate programs or lower-division courses for high school students.

Kansas State High School Activities Association Reporting (Section 11)

The bill makes KSHSAA board members, officers, and employees mandatory reporters of child abuse or neglect.

Using Needs Assessment in Budget Process (Section 12)

The bill requires local school boards to annually review state academic assessments and utilize such assessments and the school district's building needs assessment when reviewing and approving the school district's budget.

The bill requires a local school board to utilize the district's building needs assessment during approval of the school district budget. The bill requires school boards to include in their minutes during approval of the budget that the board received the district's needs assessment, how the board evaluated said assessment, and how said assessment was utilized in the district's budget.

The bill requires a school board to conduct an annual review of state assessment results for its district and that the review document the following findings:

- Barriers that must be overcome for all students to achieve above level 2 proficiency on state assessments;
- Budget actions that should be taken to address and remove barriers; and

- The amount of time the board estimates it will take for all students to achieve above level 2 on state assessments if budget actions are implemented.

Each school district must ensure all building needs assessment and state assessment documentation is available on the district's website.

Part-time Enrollment (Section 14)

The bill amends the compulsory school attendance statute to consider students enrolled in a combination of public and private school during the required periods of time as compliant with compulsory attendance requirements. The bill also makes changes regarding when a student 16 to 17 years of age may be exempt from compulsory attendance:

- Clarifying that, following a final counseling session with the school, the student's parent or person acting as parent can provide written consent to allow exemption; and
- Including an exemption for a child subject to a court order that allows or requires the child be exempt from compulsory attendance.

The bill also requires school districts to allow for the part-time enrollment of students who are also enrolled in a private school or home school. Each board of education of a school district must adopt a policy to allow such students to enroll and attend any courses, programs, or services offered by the school district.

If school districts receive specific scheduling requests from part-time enrolled students, the bill requires the school district to make a good faith attempt to accommodate such requests, but the bill would not require such school district to accommodate all requests.

Virtual School Graduation Rates and Virtual School Financial Incentives (Section 19)

Virtual School Graduation Rates

The bill amends the Virtual School Act to require a virtual school's graduation rate to include only those students who enrolled in a virtual school with sufficient credits to be expected to graduate in the same school year as such student's cohort group. The bill requires that this graduation rate calculation be done only at the state level for accreditation purposes.

Virtual School Financial Incentives

The bill amends the Virtual School Act to prohibit any virtual school from offering or providing any financial incentive for a student to enroll in a virtual school. A financial incentive is defined as any monetary payment or award that is intended to encourage, entice, or motivate a student to enroll in a virtual school.

Virtual Diploma Completion (Section 20)

Virtual Diploma Completion

The bill amends the virtual school finance system to provide funding on a per-course basis for a student who is 19 years of age or younger and:

- Has a ratio of earned credits to expected credits for their cohort year of less than 75.0 percent when enrolling in a virtual school;
- Has done one of the following:
 - Dropped out of high school such that the student has not attended any school of a school district for 60 consecutive days or more during the current school year and the student is not reasonably anticipated to recommence enrollment or attendance at any school or school district during the current school year;
 - Dropped out of high school such that the student has not attended any school of a school district for 60 consecutive days or more during the preceding school year, and the student did not finish such preceding school year, and the student is not reasonably anticipated to recommence enrollment or attendance at any school of a school district during the current school year; or
 - Been exempted from compulsory student attendance by written consent of the parent pursuant to KSA 72-3120; and
- Has not been counted in the enrollment of a virtual school as a full-time or part-time virtual student during the school year in which such student enrolls as a dropout diploma completion virtual student.

The bill authorizes virtual schools to receive \$709 per passed course with a maximum for six courses per year, per eligible student.

Tax Credit for Low Income Students Scholarship Program (Section 21)

The bill amends the Tax Credit for Low Income Students Scholarship Program Act to include children seven years of age or under in the definition of “eligible student.”

Federal Impact Aid and Capital Improvement State Aid (Sections 22 and 23)

The bill amends the calculation of a unified school district’s local foundation aid by removing the requirement that 70.0 percent of a school district’s federal impact aid be included in the calculation.

[Note: Federal impact aid is provided to school districts that have lost property tax revenue due to the presence of tax-exempt federal property or serve large numbers of federally connected students.]

The bill extends the statutory cap on the aggregate amount of school district general obligation bonds the State Board may approve to June 30, 2027.

School districts that are not eligible to receive capital improvement state aid or that have opted out of receiving such aid are exempt from the general obligation bond cap.

For all general obligation bonds approved at elections held on or after July 1, 2022, the bill removes Unified School District 207, Fort Leavenworth, from the determination of the school district with the lowest assessed value per pupil (AVPP), and the capital state aid computation would begin at 51.0 percent.

The bill also excludes all students enrolled in a virtual school within a school district from the determination of that district's AVPP.

Student Achievement Summary Report (Section 24)

The bill amends school and school district accountability reports law to require KSDE to prepare and submit to the Governor and the Legislature a summary report regarding student achievement. Such report must provide:

- A statewide summary of the performance accountability reports and longitudinal achievement reports that are prepared by KSDE, which include:
 - Achievement results from English language arts (ELA) and math assessments over the preceding five years for all students and student subgroups to show whether there are statewide trends in academic achievement or learning loss;
 - A comparison to any other evaluation metric used by the State Board, such as college and career readiness or graduation rates;
 - A comparison to other educational assessments such as the National Assessment of Educational Progress (NAEP);
 - An analysis of trends in student achievement outcomes and a review of conditions that are impacting educational outcomes;
 - A review of the academic interventions that school districts are using to improve student performance, whether the State Board has any recommendations regarding interventions, and the estimated achievement gains of such interventions; and
 - A summary of performance levels and the scale and cut scores for the statewide assessments; and
- A student-focused longitudinal achievement report that provides information on achievement gains or losses for certain student cohort groups. Such report must begin with all students entering the third grade and the students entering eighth grade in school year 2022-2023 and summarize the longitudinal achievement of such students over a three-year period. KSDE must repeat such report every three years for such grade levels. Each longitudinal report must include:

- A summary of the improvement or learning loss occurring within such cohorts;
- An analysis of evaluations and metrics used to measure the year-over-year achievement of such student cohorts;
- A review of the academic interventions that school districts use to improve student performance, whether the State Board has any recommendations regarding interventions, and the estimated achievement gains of such interventions; and
- The achievement results from the ELA and math assessments and any other assessment data, such as the NAEP, ACT, and pre-ACT for such student cohort groups.

Surveys (Section 27)

The bill adds requirements for the administration of nonacademic surveys, including tests, questionnaires, and examinations in schools. The bill applies such requirements to any survey administered during the school day that contains questions about the personal and private attitudes, values, beliefs, or practices of the student or any of the student's family, friends, or peers. The bill requires the school to provide written notification prior to the administration of any such survey to the parent or guardian no more than four months in advance of the administration of the survey. The bill requires the written parental notification to include the following information:

- A copy of the survey;
- Information on how the parent can provide written consent for the student to participate;
- The name of the company or entity that produces or provides the survey; and
- Whether the school will receive or maintain the resulting data and how the school will use such data.

The bill provides that a parent's written consent can only be accepted by a school after the parent receives the required notification and has had an opportunity to review the information in such notification. A separate notification is required for each survey, and the parent's written consent is required upon each notification for a student to participate. If a parent provides written consent, the bill requires a student to be informed the student has the right to refuse to take such survey and not suffer any adverse consequences for the decision.

The bill requires each school to post and maintain copies of each survey that is administered in the school district. The bill requires copies to be posted on the school district website and updated as necessary. The bill also provides that no such survey shall be incorporated or embedded in any academic program, course, or curriculum offered or provided by a school district.

The bill prohibits the collection of any personally identifiable student data on any such survey.

Suicide Risk Assessments and Screening Tools

The bill allows designated school personnel (school personnel), if they become aware of a credible report of a student suicide risk, to administer a suicide risk assessment or screening tool to determine whether the student could be at risk for suicide. Such school personnel include, but are not limited to, any administrator, teacher, counselor, social worker, psychologist, or nurse.

Prior to the administration of the risk assessment or screening tool, the school personnel must verbally notify the parent or guardian. If the school personnel are not able to reach the parent or guardian and obtain consent after reasonable attempts to do so, the risk assessment or screening tool can be administered. If the risk assessment or screening tool was administered without the parent or guardian's consent, school personnel must notify the parent as soon as contact can be made that the risk assessment or screening tool was administered and provide the parent or guardian with all information obtained from the risk assessment or screening tool.

Promise Scholarships (Sections 28-33)

Definitions, Kansas Promise Scholarship Act

The bill amends the definition of "eligible postsecondary institution" by adding the requirement that any community college or technical college have a recognized service area in order to qualify.

The bill amends the definition of "part-time student" to clarify that enrollment in the required six credit hours could occur in the fall, summer, or spring semester.

The bill amends the term "promise eligible program" to require the program to be both approved by the Board and be considered high wage, high demand, or critical need. The bill also requires promise-eligible programs to be within a field of study designated in the bill.

[Note: These requirements are added to all other requirements within the program definitions.]

State Board of Regents

Responsibilities. The bill changes the date by which the State Board of Regents (Board) is directed to adopt rules and regulations for the Kansas Promise Scholarship Program (Program) from March 1, 2022, to March 1, 2023.

The bill also clarifies elements of the Board's responsibilities. The Board is no longer responsible for setting the deadline for scholarship applications but instead is responsible for accepting and processing scholarships throughout the year.

The Board is also prohibited from adopting terms, conditions, and requirements for scholarship agreements that are more stringent than the requirements for scholarship agreements provided in the Kansas Promise Scholarship Act (Act).

The bill adds responsibilities of the Board, including the following:

- Requesting information from state agencies necessary for administration of the Act;
- Accepting electronic signatures on all forms and agreements;
- Enforcing Kansas Promise Scholarship agreements;
- Collecting moneys repaid by students; and
- Determining fulfillment of residency work requirements.

The bill clarifies Kansas Promise Scholarship agreements are made between the Board and the student.

The bill establishes the process by which the Board may remove promise eligible programs from the list of approved programs.

Annual report. The bill clarifies the annual report requirement by stating that the report shall include, but not be limited to, the following information:

- Total program cost for each promise-eligible program at each eligible postsecondary institution;
- Amount of scholarship moneys awarded that went to each promise-eligible program;
- Number of credit hours paid for with scholarship moneys;
- Amount of scholarship moneys expected to be awarded to each eligible postsecondary institution for each semester;
- Number of scholarships awarded;
- Total amount of scholarship moneys awarded;
- Measures postsecondary educational institutions have taken in working with private business and industry in the state to determine appropriate fields of study;
- Review of the employment of scholarship recipients who have graduated from the Program including employment fields and geographic location of such employment; and
- Amount of scholarship moneys provided for:
 - Tuition;

- Fees;
- Books; and
- Supplies.

Associate degree transfer program. The bill allows the Board to designate an associate degree transfer program as an eligible program if the program includes an established 2 + 2 agreement with a four-year postsecondary educational institution or an articulation agreement with said educational institution, and is part of an established degree pathway that allows for the transfer of a minimum of 60 credit hours.

The bill applies the designation of associate degree transfer programs retroactively to the enactment of the Program on July 1, 2021.

Scholarship funds. The bill requires the Board to disburse scholarship funds through reimbursement requests from eligible postsecondary institutions, and reimbursement requests shall be based upon the actual amount of awarded scholarships for the academic period. The bill states all requests shall be submitted to the Board on or before September 1, December 1, March 1, and June 1 of each year. The Board is required to disburse funds to eligible postsecondary institutions on September 15, December 15, March 15, and June 15 of each year.

The bill states the Board is the sole entity responsible for collection and recoupment of Kansas Promise Scholarship funds required to be repaid by students who fail to meet the requirements of the Act.

The Board is authorized to designate a loan servicer or collection agency to collection and recoup such funds on the Board's behalf.

Postsecondary Institutions

Requirements. The bill prohibits eligible postsecondary institutions from limiting scholarship awards to certain programs at the institution or awarding less than the full scholarship amount to students who qualify under the Act as long as funds are available.

Eligible postsecondary institutions are required to counsel eligible students regarding the requirements and conditions of the promise scholarship agreements.

The bill also clarifies that no eligible postsecondary education institution is permitted to advertise Kansas Promise Scholarships in any state other than Kansas.

Additional field of study. The bill amends the Program by allowing eligible postsecondary educational institutions to designate an additional field of study that meets local employment needs to be eligible for scholarships. To be eligible, the field of study must meet the following requirements:

- The field of study contains promise-eligible programs approved by the Board;
- The institution already offers such field of study; and

- The field of study is one of the following:
 - Agriculture;
 - Food and natural resources;
 - Education and training;
 - Law, public safety, corrections, and security; or
 - Distribution and logistics.

[*Note:* Current law allows for the designation of a single additional program rather than all eligible programs within a field of study.]

The bill requires all programs designated by eligible institutions prior to enactment of the bill to be maintained until all students currently enrolled have exhausted their promise scholarship eligibility.

Enforcement. The bill clarifies that eligible postsecondary educational institutions cannot be considered contractors of the State and are not required to participate in the tracking, collection, or recoupment of funds by students who fail to uphold the requirements of their scholarship agreement.

Kansas Promise Scholarships. The bill requires these scholarships be awarded for an academic year rather for a semester.

The bill also establishes a definition of “aid” to mean any grant, scholarship, or financial assistance awards that do not require repayment, with the exceptions of assistance provided under the Servicemen’s Readjustment Act of 1944 (GI Bill) or any family postsecondary savings account (Section 529 Accounts).

The bill removes language allowing excess funds to be awarded to eligible students whose family household income exceeds the limits in the Act.

The bill caps the expenditures for eligible students to either 68 credit hours or \$20,000, whichever occurs first, over the lifetime of the student. Students are also prohibited from using promise scholarship funds for the following:

- Prerequisite classes required for promise-eligible programs unless said prerequisite is within the eligible program; or
- Any remedial course as defined in statute unless offered in a corequisite format.

Eligibility requirements. The bill changes eligibility requirements for the Program by requiring a student to be a citizen of the United States and removing the requirement that the student be 21 years of age or older if they had not graduated from a secondary school within the 12 months prior to application.

The bill adds clarification to state that the three-year residency requirement must be proven by one of the following:

- Issuance date on a Kansas-issued identification card;

- Kansas voter registration records; or
- Kansas income tax documentation.

The bill makes students who had been in the custody of the Secretary for Children and Families at any time during grades 9 through 12, and not eligible for the Kansas Foster Child Educational Assistance Act, automatically eligible for promise scholarships.

The bill makes further clarifications to eligibility requirements, such as stating that the applicant's Free Application for Federal Student Aid (FAFSA) must be determined to be free of error codes and that the maintenance of satisfactory academic progress must be in the promise-eligible program for which the scholarship was awarded.

Kansas Promise Scholarship agreements. The bill changes the time in which a student must complete the Program from 30 months to 36 months from initial award of the scholarship.

The bill clarifies that the two-year residency requirement upon completion of a promise-eligible program must be verified by the scholarship recipient providing a W-2 wage and tax statement to show proof of Kansas withholding or estimated income tax to the State of Kansas.

The bill amends the terms of repayment by stating that the interest rate would be determined based upon when the student's first course funded under the Program began, rather than when the student entered into an agreement with the Board as in current law.

The bill clarifies that interest will begin accruing on the date when the student is determined to be out of compliance with the student's scholarship agreement.

For the purposes of determining a student's satisfaction of the Act's requirements, collection or recoupment of funds, or determination of eligibility, the bill authorizes all eligible postsecondary educational institutions and state agencies to provide the Board with the following information:

- Last known contact information for each student who has entered into, but not completed, a scholarship agreement;
- Notification of a student receiving a Kansas Promise Scholarship;
- Completion of a promise-eligible program by a student;
- Exhaustion of Kansas Promise Scholarship benefits by a student; and
- Information on any student exceeding the 36-month program completion requirement.

The bill states that a Kansas Promise Scholarship agreement cannot be terminated solely on the basis of an amendment to the Act, adopted rules and regulations, change in list of approved programs, or appropriations made under the Act.

Kansas Promise Scholarship funding. The bill removes the 150.0 percent escalator for appropriations after FY 2023 and provides for no more than \$10.0 million annually through FY 2027.

Kansas Hero's Scholarship Act (Section 34)

The bill changes the name of the tuition waiver for educational benefits for dependents or spouses of certain first responders and military personnel to the Kansas Hero's Scholarship Act. The bill adds definitions and increases the amount of reimbursement to Kansas educational institutions from \$350,000 to \$500,000 in any fiscal year for educational benefits.

Current law allows eligible students to enroll in a Kansas educational institution without charge of tuition and fees. Eligible students will include spouses and dependents of deceased, injured, or disabled public safety officers and employees and certain deceased, injured, or disabled military personnel and prisoners of war.

Definitions

The bill adds the following definitions:

- “Accident” means an undesigned, sudden and unexpected traumatic event, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. An accident will be identifiable by the time and place of occurrence, produce at the time symptoms of an injury, and occur during a single work shift. The accident will be the prevailing factor in causing the injury.
- “Covered person” means a public safety officer or Kansas resident in military service to whom this section applies.
- “Fees” means those charges required by an institution to be paid by every student as a condition of enrollment. Fees do not include all other charges associated with the student's academic program or living costs.
- “Injured or disabled” means the covered person, because of the injury or disability, has been incapable of performing the following duties:
 - The position being performed at the time the injury or disability was sustained; and
 - Any position that is at or above the pay level of the position the covered person was in at the time the injury or disability was sustained, if the covered person is a paid employee.
- “Injury and disability” means any lesion or change in the physical structure of the body causing damage or harm thereto that is not transitory or minor. Injury and disability may occur only by accident, intentional act of violence, or repetitive trauma.

- “Intentional act of violence” means one or a combination of the following:
 - A deliberate act by a third party that results in inflicting harm on a covered person while such person is performing those duties; or
 - A deliberate act by a covered person in the reasonable performance of duties as a covered person that results in the infliction of harm on the covered person.

An intentional act of violence is identifiable by the time and place of occurrence, produce at the time symptoms of an injury, and occur during a single work shift. The intentional act of violence will be the prevailing factor in causing the injury.

An intentional act of violence cannot include repetitive trauma in any form.

- “Nature of the employment” means that, to the occupation, trade, or employment in which the covered person was engaged, there is attached a particular and peculiar hazard of the injury or disability that distinguishes the performance of job duties from other occupations and employments and that creates a hazard of such injury or disability in excess of the hazard of the injury or disability in general.
- “Repetitive trauma” means the cause of an injury that occurs as a result of repetitive use, cumulative traumas, or microtraumas. The repetitive nature of the injury will be demonstrated by diagnostic or clinical tests. The repetitive trauma will be the prevailing factor in causing the injury.

Repetitive trauma includes only an injury arising out of the performing of duties and resulting from the nature of the employment in which a covered person was engaged and that was actually contracted while so engaged. The injury appears to have had its origin in a special risk of injury connected with the particular type of employment and to have resulted from the source as a reasonable consequence of the risk. Ordinary injuries of life and conditions to which the general public is or could be exposed outside of the particular employment, and hazards of injuries and conditions attending employment in general, will not qualify as repetitive trauma.

ELECTIONS AND ETHICS

Elections and Voting; Senate Sub. for HB 2138

Senate Sub. for HB 2138 amends and creates law pertaining to elections and voting, including voter registration, election audits, distinctive watermarks on paper ballots, electronic or electromechanical voting systems, electronic poll books, an affidavit system for transferring ballots, duties of the Secretary of State (Secretary) and election officials, electronic poll book fraud, exemptions from election crimes for poll workers, and providing electronic election results.

Affidavit System

The bill requires the Secretary, in consultation with county election officers, to develop an affidavit system to be utilized for the transfer of ballots. The bill requires each person who handles ballots to sign an affidavit listing, if applicable, the:

- Number of blank ballots;
- Number of spoiled ballots;
- Number of provisional ballots;
- Number of counted ballots;
- Number of advanced ballots in envelopes;
- Name of the person to whom such ballots were delivered; and
- Location of where the ballots were delivered.

The affidavit system developed by the bill applies to all ballots received, handled, and collected by county election offices prior to, on, and after the date of an election. The affidavit system will operate in conjunction with statutory provisions regarding transporting, preserving, and destroying ballots and election records.

Violations of the bill include altering any information provided in an affidavit or providing false information in an affidavit with the intent to hinder, prevent, or defeat a fair election. Such violations constitute a severity level 9 nonperson felony.

Biannual Elections Audit

The bill creates an election audit procedure to be conducted by the Secretary in the calendar year following the general election of an even-numbered year.

The Secretary will select four counties at random to be audited under the bill, pursuant to the following:

- One county must have a voting-age population of more than 90,000;
- One county must have a voting-age population of more than 20,000 but less than 90,000; and
- Two counties must have voting-age populations of less than 20,000.

The bill specifies that voting-age populations shall be set by the most recent federal decennial census.

The bill requires the Secretary to adopt rules and regulations necessary to implement the audits, including specifying the specific records and procedures to be examined.

Watermarks

The bill requires all voting systems in Kansas to use a paper ballot with a distinctive watermark as established by the Secretary, for elections on and after January 1, 2024.

The bill requires the ballot to be:

- Marked by the voter, or person assisting the voter as permitted by law, by hand or by use of a voting machine that is a non-tabulating paper ballot marking or printing device;
- Subject to inspection and verification by the voter after marking and before the vote is cast and counted; and
- Canvassed by hand or by vote-tabulating equipment.

The bill requires the voting system to provide the voter an opportunity to correct any error on the paper ballot before it is secured and preserved.

The bill prohibits a voting system from preserving paper ballots in a manner that would associate a voter with the record of their vote without the voter's consent.

The bill requires the paper ballot to be preserved and constitute the official ballot for audit and recount purposes. The bill requires each paper ballot to be counted by hand in a recount unless the recount requestor elects not to have the ballots counted by hand. In the event of any inconsistencies in vote tallies, the vote tallies of the paper ballots counted by hand will be the true and correct record of votes cast.

The bill prohibits the use of poll books not requiring a hand-written signature.

The bill requires the Secretary to adopt rules and regulations to implement these provisions by January 1, 2023.

Exemptions from Certain Election Crimes for Poll Workers

Assisting Voters in Marking or Signing Advanced Voting Ballots

The bill amends law to specify a county election officer assisting voters with marking or signing an advance ballot as part of the duties of the county election office would not be a violation of the bill. The bill also adds an exemption to a prohibition on a candidate for office similarly assisting a voter for candidates for office employed by a county election office who are assisting voters in marking or signing such voters' advance voting ballots as employees of that

office. The exemption does not apply if the candidate's name appears on the ballot being marked or signed.

With regard to this exemption, the bill defines "candidate for office" to mean an individual who has declared such individual's candidacy pursuant to provisions pertaining to primary elections, ballots, and procedures (KSA 25-205 *et seq.*) or has been nominated for elected office pursuant to provisions governing independent nominations, terms of office (KSA 25-301 *et seq.*) in the election for which the voter applied for an advance ballot. This definition also applies to candidates for office who transmit advance voting ballots on behalf of other voters.

Confirmation Notices

The bill allows a county election officer to remove a registered voter from the registration list if such registrant has had no election-related activity for any four-calendar-year period and the confirmation notice sent by the county election officer is returned as undeliverable.

Under current law, a county election officer must send a confirmation notice to a registrant within 45 days of the following events:

- A notice of disposition of a voter registration application is returned as undeliverable;
- Change of address information identifies a registrant whose address may have changed; or
- The U.S. Postal Service provides information that a registrant has moved to a different address inside or outside the registrant's current county of registration.

The bill defines "no election related activity" to mean such registrant has not voted, attempted to vote, requested or submitted an advance ballot application, filed an updated voter registration card, signed a petition required by law to be verified by the county election officer or the Secretary, or responded to any official election mailing transmitted by the county election office.

Crime of Electioneering

The bill adds exemptions from the crime of electioneering by a candidate for:

- Any county election officer (under continuing law, this exemption also applies to the Secretary and election officials);
- A candidate for precinct committeeman or committeewoman who is:
 - Employed by a county election office; and
 - Engaged in the performance of such employee's duties; and

- A candidate for any office, not including candidates for Secretary of State, any election official or any county election officer, or precinct committeeman or committeewoman, who is:
 - Employed by a county election office;
 - Engaged in the performance of such employee's duties; and
 - Not appearing as a candidate for office on any ballot such employee touches, handles, distributes, or counts.

In regard to electioneering, the bill defines “candidate” to mean an individual who has declared their candidacy or has been nominated for elected office in the election for which the individual is charged with having violated the electioneering provisions of the bill.

Audit of Elections Within One Percent

Continuing law requires, for an election to be certified, a manual audit or tally of each vote cast in an election, regardless of voting method, in one percent of all precincts, with a minimum of one randomly selected precinct per county, to be conducted by a sworn election board.

The bill amends law to require such an audit to be conducted in any even-numbered year federal, statewide, or state legislative race where the margin of victory is within one percent. The county election officer will be required to audit ten percent of all county precincts, with a minimum of one precinct, in the same manner as existing audit requirements. The precincts audited will be in addition to precincts audited for any election to be certified.

Canvass Abstracts Available for Review

The bill requires, upon the publication of the notice of the time and location of the audit required by the bill, that the abstracts of original canvass be made available for review by any authorized poll agent. The bill requires the abstracts from all precincts to be made available for review, not just the abstracts of precincts subject to the audit.

[*Note:* Under current law, a county election board, upon completion of its canvass, makes and certifies abstracts of the votes cast for each precinct.]

Elections Results—State Board of Canvassers

The bill requires each county election officer to provide precinct-level election results electronically in machine-readable format for all federal offices, statewide offices, legislative offices, and local offices not later than 30 days after the final canvass of general election results.

Electronic Poll Books

Definition

The bill defines “electronic poll book” as a list of registered voters for a particular precinct or polling location that may be transported to a polling location and on which each voter may sign their signature. The bill clarifies “electronic poll book” would not include automatic tabulating equipment or data processing equipment, including a direct recording electronic system, that are components of an electronic or electromechanical voting system.

Board of County Commissioners and County Election Officer Provisions

The bill permits a board of county commissioners (board) and county election officer (officer) to provide electronic poll books to be used at voting places, or for advance voting, at national, state, county, township, city, and school primary and general elections and in question submitted elections. Such board and officer are permitted to issue bonds to finance and pay for the purchase, lease, or rental of such electronic poll books. Such board and officer are permitted to adopt, experiment with, or abandon any electronic poll book authorized for use in the state. If the Secretary rescinds approval of any electronic poll book, the board and officer will be required to abandon such electronic poll book until changes required by the Secretary are made; if such changes cannot be made, the abandonment would be permanent.

Prohibitions

The bill prohibits, beginning July 1, 2022, the board and officer from purchasing, leasing, or renting any electronic poll book, unless such poll book has been certified by the Secretary. The bill also prohibits the operation of any electronic poll book with network connectivity that does not meet security standards established by the Secretary.

Secretary of State Responsibilities

The bill requires the Secretary to examine and approve the kinds or makes of electronic poll books; no kind or make of electronic poll book will be permitted to be used at any election until it receives certification by the Secretary.

Sale of Electronic Poll Books

The bill permits any person, firm, or corporation that desires to sell electronic poll books to political subdivisions in the state to request in writing for the Secretary to examine such poll books. The bill requires any such written request to include a certified check for \$250 to defray costs for the Secretary to provide the examination. [Note: Such examination will follow the guidelines for examination of electronic or electromechanical voting systems in KSA 25-4405.]

Electronic or Electromechanical Voting Systems

The bill requires that any electronic or electromagnetic voting system approved by the Secretary shall not have the capability of, or any component thereof shall not have the capability

of, connecting to the internet or any other communications or computer network. The bill specifies such networks include, but are not limited to, a local area network, wireless network, cellular network, or satellite network, or the use of Bluetooth or any other wireless communications technology.

Use of Electronic Poll Books and Electronic or Electromechanical Voting Systems

The bill requires the board and officer to provide the number of units of electronic or electromechanical voting systems or electronic poll books as necessary to equip voting places, if such board and officer have determined a kind or make of such voting systems or poll books shall be used in the county.

If the Secretary has rescinded the approval of any electronic poll book, the bill prohibits any tax from being levied, or any moneys being paid from any fund, for the purchase, lease, or rent or such poll book. [Note: This adds to the prohibition in KSA 25-4407 for electronic or electromechanical voting systems.]

The bill adds electronic poll books to electronic or electromechanical voting systems as equipment for which the board must provide for storage and for which the officer must be in complete charge of its safekeeping, repair, and delivery. The bill requires the officer to see that such poll books, in addition to voting systems, are returned to their storage after any election.

The bill requires election judges before, during, and after the operation of the polling place, to make all electronic or electromechanical voting systems and vote tabulating equipment available to any candidate or any authorized poll agent for review to ensure there is no connectivity to the internet or to any other communications or computer network.

Testing of Vote Tabulation Equipment

To law requiring officers to have testing conducted of automatic tabulating equipment within five days prior to the date of an election, the bill adds a requirement for public notice of such test to be published on the county website, if the county has a website.

The bill amends law requiring such testing to be repeated after the completion of the canvass to require such repeat testing to be conducted within five business days after the completion of the canvass.

Electronic Poll Book Fraud

The bill expands the current crime of electronic or electromechanical voting system fraud to include electronic poll book fraud, defined as:

- Being in unlawful or unauthorized possession of electronic poll books; or
- Intentionally tampering with, altering, disarranging, defacing, impairing, or destroying any electronic poll book, or component thereof.

Electronic poll book fraud is a severity level 9 nonperson felony.

Optical Scanning Equipment

To law requiring officers to have testing conducted of optical scanning equipment within five days prior to the date of an election, the bill adds a requirement for public notice of such test to be published on the county website, if the county has a website.

The bill amends law requiring such testing to be repeated after the completion of the canvass to require such repeat testing to be conducted within five business days after the completion of the canvass.

The bill prohibits any optical scanning equipment and systems using optical scanning equipment approved by the Secretary from having the capability of, or any component having the capability of, being connected to the internet or any other communications or computer network, including a local area network, wireless network, cellular network, satellite network, or using Bluetooth or any other wireless communications technology.

Modification of Election Laws by Agreement; Senate Sub. for HB 2252

Senate Sub. for HB 2252 amends law regarding modifying election laws by agreement.

The bill prohibits the Governor, the Secretary of State (Secretary), and any other officer in the executive branch from entering into a consent decree or other agreement with any state or federal court or any agreement with any other party regarding the enforcement of election law or the alteration of any election procedure without specific approval by the Legislature. [*Note:* Current law restricts only the Secretary from entering into such agreements without specific approval by the Legislative Coordinating Council (LCC).]

If the Legislature is not in session when such agreement is submitted for review, the bill requires approval to be sought from the LCC.

GAMING

Sports Wagering; House Sub. for Sub. for SB 84

House Sub. for Sub. for SB 84 amends the Kansas Expanded Lottery Act (KELA) concerning the conducting of sports wagering operations by lottery gaming facilities. The bill adds new sections to KELA that are a part of and supplemental to the Kansas Lottery Act (KLA). The bill also amends the Kansas Parimutuel Racing Act and authorizes operation of historical horse race machines.

Lottery Control of Sports Wagering

Continuing law places decisions regarding lottery gaming facility games within the full control of the Kansas Lottery (Lottery). The bill amends that provision to also include decisions concerning sports wagering.

The bill amends law related to oversight of lottery gaming facility operations by the Kansas Racing and Gaming Commission (KRGC) to include auditing of sports wagering revenues and to require appropriate security measures where sports wagering is located or managed.

Sports Wagering Operations

The bill authorizes the Lottery to offer sports wagering:

- In accordance with the KLA and KELA; and
- Through one or more lottery gaming facility managers (managers) who have contracted with the Lottery under KELA to manage sports wagering on behalf of the Lottery, including, but not limited to, sports wagering through an interactive sports wagering platform and the use of any such licensed interactive sports wagering platforms (platform) at the primary facility of a professional sports team pursuant to a marketing agreement entered into between the gaming manager and the professional sports team; and
- Through one or more platforms including the use of any such platform at the primary facility of a sporting facility pursuant to a marketing agreement entered into between the Lottery and the facility.

Platforms, Compulsive Gambling

The bill limits each sports wagering manager to three interactive sports wagering platforms that must be approved by the executive director of the Lottery (Lottery Director), and wagering offered through a platform can be offered only as approved by the Lottery in accordance with KELA. In order to be approved, the bill requires platforms:

- Serve the public convenience;

- Promote sports wagering in accordance with marketing plans developed by the Lottery; and
- Offer sports wagers.

The bill requires requests for approval of platforms to be submitted to the Lottery in a form determined by the Lottery Director. Sports wagering managers must include information regarding the platform and intended use of the platform. Additionally, the bill requires all background investigation requirements required by the KRGC to be completed before consideration of approval and usage of platforms.

The bill requires the Lottery Director to issue a final decision regarding approval of a platform within 30 days after the request is submitted. The bill also provides that the Lottery Director may not unreasonably withhold approval of a platform a manager requests to be approved. Managers are also not required to use the same platforms.

The bill requires the Lottery Director to prescribe a submission process for requests for approval of platforms and to notify gaming facility managers of the process on or before September 1, 2022. The bill also requires the KRGC Director to prescribe a background investigation process for platforms on or before August 1, 2022, and to notify gaming facility managers of the process. The bill requires the KRGC to commence background investigations of platforms on or before August 15, 2022.

Managers are also allowed to apply to the Lottery for approval of one additional graphical user interface (also known as a “skin”) for a platform that is specific to a professional sports team that has a marketing agreement with such manager.

The bill allows a sports wagering manager to accept wagers placed through an interactive sports wagering platform only from individuals physically located in Kansas at the time of submitting the wager.

Compulsive Gambling

The bill prohibits a lottery gaming facility manager from providing a line of credit to any person engaged in sports wagering.

The bill requires lottery gaming facility managers to include information and tools to assist players in making responsible decisions. The bill requires, at a minimum, the provision of:

- Prominently displayed tools to set limits on the time and money spent by a person on any interactive sport wagering platform;
- Prominently displayed information regarding compulsive gambling and ways to seek treatment and support; and
- The ability for a person to exclude the use of certain electronic payment methods if desired by the person.

Sports Wagering Suppliers

The bill requires licensure of any person who provides goods, services, software, or any other components necessary for the determination of odds or outcomes of any wager on a sporting event, either directly or indirectly, to a manager, including data feeds and odds services.

The bill requires the KRGC to issue such license to a person who is qualified under the bill's provisions and any rules and regulations adopted by the agency.

Supplier License Application

The bill requires applications to be submitted in the form and manner prescribed by the KRGC and to include:

- The identity of:
 - Each person who directly owns at least a 10 percent interest in the applicant;
 - Each holding, intermediary, or parent company that owns at least a 15 percent ownership interest in the applicant; and
 - The chief executive officer and chief financial officer of the applicant or the individual holding an equivalent office with respect to the applicant, as determined by the KRGC; and
- Such other information as required by the KRGC.

The bill specifies that disclosure of any of the following direct or indirect shareholders of the applicant shall be waived:

- Any government-created entity, including, but not limited to, any statutorily authorized pension investment board, or crown corporation of Canada; and
- Any investment funds or entities registered with the Securities and Exchange Commission (SEC), including any investment advisor, or entities under the management of an entity registered with the SEC.

Supplier License Term; Fee

The bill allows the KRGC to issue a provisional supplier license if the applicant has submitted a complete application and paid the required fee. Such provisional license shall have a term specified on the license of up to one year, and the holder is required to surrender such provisional license upon issuance of a supplier license.

The bill directs the KRGC to establish a license fee for issuance and renewal of supplier and provisional supplier licenses.

A supplier license will be valid for a period of two years from issuance and can be renewed by the licensee prior to expiration upon application and payment of the required fee.

Marketing Agreement—Professional Sports Team, Sporting Facility

The bill allows a professional sports team or other marketing entity to enter into a marketing agreement with a manager for the purpose of marketing sports wagering at the primary facility of such team or marketing entity.

The bill requires such sports wagering to be managed by the manager. Additionally, the bill prohibits any owner, director, officer, employee, or agent of the team or marketing entity from having any duties directly related to the operation or management of sports wagering except as expressly provided in the marketing agreement.

Marketing Agreement Requirements

The bill requires a marketing agreement to provide that the professional sports team or marketing entity will promote and advertise sports wagering on behalf of the other contracting party at the primary facility of the professional sports team or marketing facility. The bill allows the promotion and advertising to include, but not be limited to:

- Advertising through signage and other media, including electronic media;
- Allowing devices such as kiosks to be located within the primary facility of the professional sports team to allow patrons to engage in sports wagering; and
- Providing access to mobile device applications that allow patrons to access the platforms utilized by the contracting party operating and managing sports wagering at the primary facility or other premises.

The bill requires any marketing agreement to prohibit the professional sports team or other marketing entity and any owner, director, officer, employee, or agent of the team or entity from taking any bets, paying out any prizes, or otherwise having any control or access to the platform or any other system used by the manager to manage sports wagering.

The bill requires, if the primary facility or other premises specified in the agreement is located outside a gaming zone, all sports wagering at such location to be conducted through a platform.

Sporting Facility

The bill allows a sporting facility to enter into a contract with a manager for the purpose of allowing the sporting facility to designate an area within the sporting facility where patrons could engage in sports wagering. The bill limits sports wagering offered in these designated areas to the use of platforms.

The bill defines “sporting facility” to mean an auto race track facility or major multi-sport athletic complex, as defined in continuing law, that is located in Wyandotte County with a minimum investment of \$50.0 million and is in operation on the effective date of the bill.

Maximum Number of Agreements

The bill specifies any manager may enter into a marketing agreement with not more than 50 marketing entities, at least 20 percent of which must be nonprofit fraternal or veterans organizations.

Marketing Agreement Approval

The bill requires any gaming manager or racetrack manager seeking to enter into a marketing agreement to submit the agreement to the Lottery for approval, and such agreement will not become effective until approved by the Lottery Director.

The bill requires an agreement that satisfies all requirements of the KLA and KELA to be approved. However, if the Lottery Director does not approve of the agreement, the bill requires the parties to be notified of the denial and provided the reasons for the denial.

Advertisements

The bill directs the Lottery to adopt rules and regulations regarding the advertisement of sports wagering by January 1, 2023. The bill specifies such rules and regulations shall include, but not be limited to:

- Ensuring advertisements do not target children and minors, other persons ineligible to place wagers, problem gamblers, or other vulnerable persons;
- Limiting the form, content, quantity, timing, and location of advertisements;
- Requiring the disclosure in all such advertisements of the identity of the manager;
- Requiring provision of the toll-free number for information and referral services for compulsive and problem gambling; and
- Prohibiting false, misleading, or deceptive advertisements.

Wagering Restrictions on Certain Sporting Events

The bill authorizes the Lottery to restrict, limit, or exclude wagering on one or more sporting events by providing notice to all managers in a form determined by the Lottery Director. The bill specifies offering or taking wagers on a sporting event contrary to any notice, or rules or regulations promulgated by either the Lottery or KRGC, is a violation of KELA.

Prohibited Wagering, Investigations, Records

The bill requires sports wagering managers to use reasonable methods to:

- Prohibit the manager; any director, officer, owner, and employee of the manager; and any relative living in the same household as such persons from placing any wager with the manager at the manager's location or through the manager's platform;
- Prohibit athletes, coaches, referees, team owners, employees of a sports governing body or its member teams, and player and referee union personnel from placing wagers on any sporting event overseen by such sports governing body (using publicly available information that may be provided to the Lottery and KRGC by sports governing bodies);
- Prohibit any person with access to nonpublic confidential information held by the manager from placing any wager with the manager;
- Prohibit persons from placing any wager as an agent or proxy for another person;
- Prohibit from placing wagers any person known by the manager as having been convicted of any felony or misdemeanor offense involving sports wagering, including, but not limited to:
 - The use of funds derived from illegal activity to make any wager;
 - Placing any wager to conceal money derived from illegal activity;
 - The use of other individuals to place any wager as part of any wagering scheme to circumvent any provision of federal or state law; and
 - The use of false identification to facilitate the placement of any wager or collection of any prize in violation of federal or state law; and
- Maintain the security of wagering data, customer data, and other confidential information from unauthorized access and dissemination.

The bill does not preclude the use of internet or cloud-based hosting of such data and information or disclosure as required by court order, state, or federal law.

Investigations

The bill requires managers to cooperate with any investigation conducted by the Lottery, KRGC, or law enforcement, including but not limited to providing or facilitating the provision of account-level betting information and audio or video files relating to persons placing wagers.

In addition, managers are required to promptly report to the Lottery and KRGC any information relating to:

- Criminal or disciplinary proceedings commenced against the manager in connection with the manager's operations in any jurisdiction in which such manager manages sports wagering activity;
- Abnormal wagering activity or patterns that may indicate a concern with the integrity of a sporting event in any jurisdiction in which such manager manages sports wagering activity;
- Any potential breach of the relevant sports governing body's internal rules and codes of conduct pertaining to sports wagering;
- Any other conduct that knowingly corrupts a betting outcome of a sporting event, including match-fixing; and
- Suspicious or illegal wagering activities, including, but not limited to:
 - Funds derived from illegal activity;
 - Wagers to conceal or launder funds derived from illegal activity;
 - Agents to place wagers; and
 - False identification when placing wagers.

The bill specifies that information provided by a sports governing body to a lottery gaming facility manager must be kept confidential and is not subject to the Kansas Open Records Act. The lottery gaming facility manager is prohibited from disclosing such information unless otherwise required by the bill, the KRGC, or state or federal law or court order. These provisions will expire on July 1, 2027, unless the Legislature reenacts such provisions.

League Data, Personally Identifiable Information

The bill authorizes gaming facility managers to use data from any source that provides certified league data approved by the Lottery Director.

The bill requires any interactive sports wagering platform used by a manager to allow an individual to elect to not have their personally identifiable information collected for any purpose other than recording the placing of wagers, payment of prizes, and as otherwise permitted in the bill. The election by an individual would be maintained by the platform and manager until the individual cancels such election.

Required Records

Sports wagering managers are required to maintain records of:

- All wagers placed, including personally identifiable information of the person placing the wager;
- The amount and type of the wager;

- The time the wager was placed;
- The location of the wager, including the IP address if applicable;
- The outcome of the wager;
- Any records of abnormal betting activity; and
- Video camera recordings, in the case of in-person wagers.

The bill requires video recordings to be maintained for 30 days after the wager is placed and all other required records to be maintained for at least 2 years after the sporting event occurs. Sports wagering managers must make such records available for inspection upon request of the Lottery or KRGC, or as required by court order.

Payment and Reimbursement

The bill creates an exception to the general prohibition on employees, contractors, or others with legal affiliations with a lottery gaming facility manager from loaning money or extending credit to patrons. The bill allows a patron of a lottery gaming facility to fund an account held by a sports wagering manager for the payment of sports wagers and pay for sports wagers using:

- Cash and cash equivalents;
- Electronic bank transfers of money, including transfers through third parties;
- Bank and wire transfers of money;
- Debit and credit cards;
- Online and mobile application payment systems that support online money transfers;
- Promotional funds provided by a lottery gaming facility manager; and
- Any other payment method approved by the Lottery.

The bill authorizes a sports wagering manager to obtain insurance or check guarantee services to protect against any loss as a result of a returned check, or a check that is not honored due to a stop payment order or nonsufficient funds.

Cause of Action for Improper Influence

The bill grants the State a cause of action to seek damages or other equitable relief against persons who knowingly engage in, facilitate, or conceal conduct that intends to

improperly influence a wagering outcome of a sporting event for purposes of financial gain in connection with wagering on the sporting event.

The bill states any such cause of action will not be a limitation on or a bar against any other claims the State could bring against such person, or any other claim the State could bring for injuries or damages arising out of the operation of sports wagering.

Self-restriction List

The bill requires a lottery gaming facility manager, upon request by an individual, to restrict such individual from placing sports wagers with such manager and take reasonable measures to prevent the individual from placing sports wagers. The lottery gaming facility manager must submit the restricting individual's name and information to the KRGC for the sole purpose of having such information disseminated to other lottery gaming facility managers. A manager in receipt of such information must restrict an individual from placing sports wagers.

The winnings of an individual who has requested to be restricted will be forfeited, and such winnings will be credited to the Problem Gambling and Addictions Grant Fund.

Sports Wagering Receipts Fund

The bill creates the Sports Wagering Receipts Fund, which contains separate accounts for receipt of sports wagering moneys from each manager, with all expenditures from the fund being made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the Lottery Director.

The bill requires all sports wagering revenues to be paid electronically to the Lottery Director weekly, or as soon as reasonably possible, but not before all bets for a specific sporting event are completed and settled. The Lottery Director must remit all moneys received to the State Treasurer and the State Treasurer is directed to deposit the amount received in the State Treasury and credit such remittance to the respective account in the Sports Wagering Receipts Fund for the relevant manager.

The bill requires the Lottery Director to allow managers to carry over negative sports wagering revenues and apply such amounts to returns filed for subsequent weeks. The bill states a return with a negative amount is a return showing a negative number because the sum of winnings paid to patrons wagering on the manager's sports wagering, plus all voided wagers and excise taxes on sports wagering paid pursuant to federal law, exceeds the manager's total bets accepted from sports wagering by patrons.

Additionally, the bill states negative amounts can not be applied to earlier weeks, and moneys will not be refunded unless the manager ceased to manage sports wagering and reported negative revenues on the manager's last return.

The bill requires the Lottery Director to certify monthly to the Director of Accounts and Reports the percentages or amounts to be transferred from each account to the Lottery Operating Fund. The Director of Accounts and Reports is directed to transfer such amounts from each account in accordance with the certification of the Lottery Director, who is required to cause amounts from each account to be paid to the managers monthly, according to each respective contract.

Attracting Professional Sports to Kansas Fund

The bill creates the Attracting Professional Sports to Kansas Fund (Sports Fund) to be administered by the Secretary of Commerce. The bill requires all moneys credited to the fund be expended in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the Secretary of Commerce, or designee, for the purpose specified in the bill.

The Secretary of Commerce is authorized to pledge all or a portion of the funds held in the Sports Fund or sports wagering revenues credited to, or to be credited to, the fund for the benefit of any professional sports team and payment of the principal or interest on any bond issued by the State or any municipality, including but not limited to sales tax and revenue (STAR) bonds, special obligation bonds, full faith and credit bonds, Tax Increment Financing (TIF) bonds, and revenue bonds. The bill also provides financing structured as pay-as-you-go if it was issued to fund the construction, rehabilitation, revitalization, or expansion of a professional sports team's primary facility or any other ancillary development to such primary facility.

The bill requires the Secretary of Commerce to certify monthly to the Director of Accounts and Reports the amount of moneys held in the fund that exceed the amount necessary for the purposes of the Sports Fund. Upon receipt of each such certification, the certified amount is required to be transferred to the Lottery Operating Fund.

On July 1, 2023, and each July 1 thereafter, or as soon as moneys are available, after the transfer required to the White Collar Crime Fund has been made, 80 percent of the remaining moneys credited to the Lottery Operating Fund from the sports wagering revenues deposited in the Lottery Operating Fund must be transferred to the Sports Fund.

White Collar Crime Fund

The bill creates the White Collar Crime Fund, to be administered by the Governor. The bill requires all moneys credited to the fund be expended only for the purpose of investigating and prosecuting:

- Criminal offenses involving or facilitated by:
 - The use of funds derived from illegal activity to make wagers;
 - Placing wagers to conceal money derived from illegal activity;
 - The use of other individuals to place wagers as part of any wagering scheme to circumvent any provision of federal or state law;
 - The use of false identification to facilitate the placement of any wager or the collection of any prize in violation of federal or state law;
 - Any other unlawful activity involving or facilitated by the placing of wagers; or
 - Any other violation of KELA; or
- Any financial or economic crime involving any unauthorized gambling.

The bill requires all expenditures from the fund to be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the Governor or the Governor's designee.

The bill requires the Attorney General and the Director of KRGC to submit requests to the Governor for the moneys they consider necessary to carry out the purposes of the White Collar Crime Fund. The Governor must certify to the Director of Accounts and Reports amounts to be transferred from the White Collar Crime Fund to any special revenue fund(s) of the Attorney General and KRGC, as deemed appropriate by the Governor. Upon receipt of such certification, the Director of Accounts and Reports must transfer amounts from the White Collar Crime Fund to the special revenue fund(s) of the Attorney General and KRGC in accordance with such certification.

The bill requires, on July 1, 2023, and each July 1 thereafter, or as soon as moneys are available, the Director of Accounts and Reports to transfer the first \$750,000 credited to the Lottery Operating Fund to the White Collar Crime Fund.

Tribal Gaming Compact

The bill requires, if any federally recognized Indian tribe submits a request for negotiation of a new or existing gaming compact regarding sports wagering, the Governor or the Governor's designee to negotiate in good faith, and the Governor must submit notice of such request to the Lottery Director.

The Lottery Director is required to enter into an agreement, on behalf of the State, with the tribe that made the request for the operation and management of sports wagering by such tribe or any corporation, limited liability company, or other business entity wholly owned by such tribe.

The bill requires the agreement to authorize the Lottery to offer sports wagering through a platform to be managed by the tribe or business entity, under the substantially same terms and conditions as any contract with a manager.

Historical Horse Race Machines

The bill authorizes wagering on one or more historical horse races, which shall be conducted in accordance with the provisions of the Kansas Parimutuel Racing Act.

The bill adds a definition of "historical horse racing machine," which means any electronic, electromechanical, video, or computerized device authorized by the KRGC that, upon insertion of cash, tokens, electronic cards, or any consideration is available to accept wagers on and simulate the running of historical horse races, and that may deliver or entitle the patron to receive cash, tokens, merchandise, or credits that may be redeemed for cash. The bill requires historical horse races to use historically accurate information of the horse race, and no random number generator or algorithm can be used for determining the results of the historical horse race. Historical horse races are required to be directly linked to a central computer at a location determined by the KRGC for purposes of security, monitoring, and auditing.

The bill requires such wagering to be conducted by an organization licensee at a facility located in Sedgwick County and only through historical horse race machines approved by the

KRGC. Such wagering is restricted to a designated area on the licensed premises of the organization licensee. The licensee must obtain approval from the KRGC for any types of wagers to be conducted on historical horse races, prior to conducting such wagering. The bill prohibits such machines from being operated at any facility that either conducts live or displays simulcast greyhound races.

Additionally, the bill permits an organization licensee to conduct parimutuel wagering on historical horse races of any horse breed regardless of the type of breed that primarily races in live meets conducted or simulcast races displayed by the licensee. Such wagering can be conducted only on days and hours approved by the KRGC and shall not be limited to times when the licensee is conducting a live horse race meeting or displaying simulcast races.

Operation of Historical Horse Race Machines

The bill specifies requirements for the operation of historical horse race machines.

A patron may only wager on races through a machine approved by the KRGC. Once a patron deposits the wagered amount in the machine, one or more races will be chosen at random.

Prior to the patron making a wager selection, the bill prohibits the machine from displaying or otherwise making any information available that may allow the patron to identify a race on which the patron is wagering, including:

- The location of the race;
- The date on which the race was run;
- The names of the horses in the race; or
- The names of the jockeys who rode horses in the race.

The bill requires the machine to make the true and accurate past performance information on a historical horse race available for viewing by a patron prior to making a wager selection. The bill requires such information to be current as of the day the race was run and could be provided in data or graphical form.

After a patron finalizes their selections and plays such selections, the machine must make a video replay of a portion of the race or the finish of the race available for viewing by the patron, and provide the official results of the race. The identity of the race could only be revealed to the patron after a wager is placed and played.

Machine Limit

The bill specifies that not more than 1,000 historical horse race machines could be placed and operated at a racetrack facility and that no wagering on such races could be conducted over the internet or a digital cellular network, including through any website or mobile device application.

Tax Rate

The bill specifies a tax rate of three percent of the total amount wagered on historical horse races.

Rules and Regulations

The bill requires the KRGC to adopt rules and regulations to implement and enforce the historical horse race machine provisions on or before January 1, 2023.

Actions Against the State

Prior to the operation of any historical horse race machines, the bill requires the Lottery Director to provide written notice to any lottery gaming facility manager located in the same gaming zone as a racetrack facility where historical horse race machines are to be operated. The notice shall state the KRGC's intent to authorize the operation of historical horse racing machines at such racetrack facility.

The bill prohibits action against the State or any other person or party for specific performance, anticipatory breach, or breach of contract based upon the premise authorization of historical horse racing violates current gaming law or the management contracts of the lottery gaming facility manager, until the lottery gaming facility manager receives the written notice specified above. Any such action shall be commenced within 60 days after receipt of such written notice and filed as an original action in the Kansas Supreme Court. The Kansas Supreme Court shall have original jurisdiction for determination of any claims made and damages.

The bill prohibits any claim for equitable relief, including injunctive relief, from being brought in any action filed under the bill. No claim could be brought in any action filed pursuant to the bill except by the lottery gaming facility manager for the lottery gaming facility located in the same gaming zone as the racetrack facility where historical horse racing machines are to be operated.

The bill prohibits monetary damages awarded in any action brought under this section from exceeding an amount equal to the privilege fee paid by the lottery gaming facility manager filing such action, plus any interest from the date such action accrued.

If no action is filed as specified in this section, the KRGC could authorize the operation of historical horse racing machines at the racetrack facility.

If an action is properly filed, KRGC could not authorize the operation of historical horse racing machines until the Kansas Supreme Court issues a final order and such order does not prohibit the KRGC from authorizing the operation of such machines.

Privilege Fee Repayment Fund

If the final judgment of the court orders repayment of privilege fees paid by the lottery gaming facility manager, the Lottery Director shall determine the total amount due for such repayment and certify such repayment amount to the facility manager licensee for the racetrack

facility. The KRGC is prohibited from authorizing the operation of any historical horse race machines at a racetrack facility until the Lottery Director has received such certified amount. The funds will be remitted to the State Treasurer and deposited to the credit of the Privilege Fee Repayment Fund.

The bill establishes the Privilege Fee Repayment Fund in the State Treasury to be administered by the Lottery. The Privilege Fee Repayment Fund will consist of those moneys as specified above. All expenditures from the Privilege Fee Repayment Fund will be used for the repayment of privilege fees and interest.

Severability

The bill specifies that provisions related to historical horse racing are severable and, if such provisions are declared void or unconstitutional, the remaining provisions of the bill will continue in full force and effect.

Misuse of Nonpublic Sports Information

The bill defines the crime of misuse of nonpublic sports information as placing, or causing to be placed, a bet or wager on a sports contest on the basis of material nonpublic sports information relating to such bet or wager, and establishes the crime as a severity level 5 nonperson felony.

The bill defines “on the basis of material nonpublic sports information” to mean the person placing the bet or wager, or causing such bet or wager to be placed, was aware of the material nonpublic information relating to such bet or wager when the person placed or caused the wager to be placed.

The bill adds these provisions to the Kansas Criminal Code.

Sports Bribery and Tampering with a Sports Contest

The bill adds match fixing as a sports bribery offense and classifies it as a severity level 5 nonperson felony.

The bill amends law concerning the crime of tampering with a sports contest to raise the classification of the crime to a severity level 8 nonperson felony from a severity level 9 nonperson felony.

Other Definitions

In addition to the terms already defined, the bill amends and adds definitions as follows.

Bet. The bill amends the definition of “bet” to exclude sports wagering on events, pursuant to KELA.

Electronic gaming machine. The bill specifies that “electronic gaming machine” does not mean a historical horse racing machine.

Gambling place. The bill amends the definition of “gambling place” by specifying the term does not apply when the place, room, building, vehicle, tent, or location is used in accordance with KELA.

Interactive sports wagering platform. The bill defines “interactive sports wagering platform” (platform) to mean an integrated system of hardware, software, and applications, including mobile applications and servers, through which sports wagering may be made available to persons physically located within Kansas at the time of submitting the wager to a sports wagering manager over the internet or wireless service, including, but not limited to, through websites and mobile device applications.

Lottery facility games. The bill amends the definition of “lottery facility games” to mean any electronic gaming machines and other games that are authorized to be conducted or operated at any licensed gaming facility in the United States, but excluding sports wagering and historical race machines, as defined by the bill.

Lottery gaming facility revenues. The bill amends the definition of “lottery gaming facility revenues” to exclude any sports wagering revenues.

Match fixing. The bill defines “match-fixing” to mean to arrange or determine any action that occurs during a sporting event, including, but not limited to, any action resulting in the final outcome of such sporting event for financial gain.

Marketing agreement. The bill defines “marketing agreement” to mean an agreement entered into between a professional sports team and the Lottery, a gaming manager, or a racetrack gaming manager for the purpose of marketing sports wagering at the primary facility of the sports team.

Primary facility. The bill defines “primary facility” to mean the stadium or arena where a professional sports team hosts competitive games in accordance with such team’s league rules.

Professional sports team. The bill defines “professional sports team” to mean an athletic team, whose primary facility is located in Kansas, that operates at the major league level in the sports of baseball, basketball, football, ice hockey, or soccer.

Sporting event. The bill defines “sporting event” to mean any amateur, professional, or collegiate sport or athletic event, motor race event, horse race, or any other event involving individual or team competition authorized by the KRGC that has not been completed at the time wagers are placed on such event. The bill excludes from the definition of “sporting event” any parimutuel horse races, greyhound races, or any sporting or athletic event where a majority of the participants are under age 18.

Sports wagering. The bill defines “sports wagering” to mean placing a wager on one or more sporting events, or any portion thereof, or on the individual performance statistics of athletes participating in a sporting event, or a combination of sporting events, with the wagering made at or through a sports wagering manager, including any platform of a sports wagering manager approved by the Kansas Lottery. Sports wagering shall include, but not be limited to:

- Single-game wagers;
- Teaser wagers;
- Parlays;

- Over-under wagers;
- Moneyline wagers;
- Pools;
- Exchange wagers;
- In-play wagers;
- In-game wagers;
- Proposition wagers;
- Straight wagers; and
- Such other wagers approved by the Kansas Lottery Commission.

The bill also specifies sports wagering does not include parimutuel wagering or fantasy sports leagues, as defined in continuing law.

Sports wagering revenues. The bill defines “sports wagering revenues” to mean wagering revenue generated from sports wagering that is an amount equal to the total wagers less any voided wagers, federal excise taxes, free plays or other promotional credits, and any amounts paid as prizes.

Wager. The bill defines “wager” or “bet” to mean a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement.

Lottery Rule and Regulation Authority

The bill amends law to require the Lottery to adopt rules and regulations governing the operation of sports wagering. The bill requires the regulations to include, but not be limited to:

- Management contracts for sports wagering conducted by sports wagering managers;
- Integrity of sports wagering operations;
- Permitting sports wagering managers and platforms to have employees located outside of Kansas;
- Permitting the establishment of online sports wagering accounts and the access to pre-established online accounts established in other states; and
- Allowing the carry-over of negative sports wagering revenues by managers.

KRGC Rule and Regulation Authority

The bill requires the KRGC to adopt permanent rules and regulations concerning KELA and sports wagering by January 1, 2023.

Problem Gambling and Addictions Grant Fund

The bill requires, on July 1, 2023, and each July 1 thereafter, or as soon as moneys are available, the Director of Accounts and Reports to transfer the 2 percent of the remaining moneys credited to the Lottery Operating Fund from sports wagering revenues to the Problem Gambling and Addictions Grant Fund after the initial credit to the White Collar Crime Fund.

The bill amends law related to the Problem Gambling and Addictions Grant Fund to specify that funds shall be used:

- To fund a helpline with text messaging and chat capabilities;
- For the treatment, research, education, or prevention of pathological gambling;
and
- Treatment for alcoholism, drug abuse, and other addictive or co-occurring behavioral health disorders.

The bill amends law to require funds in the Problem Gambling and Addictions Grant Fund to be used for the purposes specified above before being used to treat alcoholism, drug abuse, other addictive behaviors, and other co-occurring behavioral health disorders.

The bill also increases the annual transfer of funds from the State Gaming Revenues Fund to the Problem Gambling and Addictions Grant Fund from \$80,000 to \$100,000.

Conflict of Interest

The bill amends law to make it a class A misdemeanor to serve as Lottery Director, a member of the KRGC, or an employee of the Lottery while or within five years after holding, either directly or indirectly, a financial interest or being employed by a manufacturer or vendor of an interactive sports wagering platform.

The bill further amends law to make it a class A misdemeanor for the Lottery Director, a member of the KRGC, or an employee of the Lottery to accept any compensation, gift, loan, entertainment, favor, or service from any manufacturer or vendor of an interactive sports wagering platform.

Lottery Management Contracts

The bill amends law on lottery management contracts to include provisions regarding the operation of sports wagering by sports wagering managers.

The bill states any management contract approved by the Lottery Commission may include provisions for operating and managing sports wagering by the manager, in person at the lottery gaming facility and via the lottery gaming facility through no more than three platforms using the odds and wagers authorized by the Lottery.

The bill also states, if a management contract includes provisions for sports wagering, it must also state the State shall retain:

- 10.0 percent of all sports wagering revenues received from wagers placed in person at the lottery gaming facility; and
- 10.0 percent of all sports wagering revenues received by the sports wagering manager from wagers placed on the platform selected by the manager and approved by the Lottery Director.

The bill specifies, pursuant to sports wagering management contracts, the Lottery shall be the licensee or owner of all software programs used in conducting sports wagering and the sports wagering manager, on behalf of the State, must purchase or lease in the name of the Lottery, any equipment or property deemed necessary by the manager for managing sports wagering. All sports wagering shall be subject to the control of the Lottery in accordance with KELA.

Certification of Certain Persons; Rules and Regulations

The bill amends law concerning certification requirements to grant authority to the KRGC to establish, through temporary and permanent rules and regulations, a certification requirement and enforcement procedure for persons owning at least a 5.0 percent interest, rather than 0.5 percent, in a lottery gaming facility manager or racetrack gaming facility manager, and persons owning at least a 5.0 percent interest, rather than 0.5 percent, in an electronic gaming machine manufacturer, technology provider, or computer system provider who proposes to contract with a lottery gaming facility manager, a racetrack gaming facility manager, or the State for the provision of goods or services, including management services, related to either such gaming facility.

Certification for Employees Involved in Sports Wagering

The bill requires the KRGC, through rules and regulations, to create an annual certification requirement and enforcement procedure for:

- Employees of a sports wagering manager or other entity owned by the manager's parent company that are directly involved in the operation or management of sports wagering managed by such manager; and
- Those persons who propose to contract with a manager for the provision of goods or services related to sports wagering, including any platform requested by a manager.

The bill requires this annual certification requirement to include compliance with such security, fitness, and background investigations and standards as the KRGC Director deems necessary to determine whether such person's reputation, habits, or associations pose a threat to the public interest of the state or to the reputation of, or effective regulation and control of, sports wagering conducted by the lottery gaming facility.

The bill also requires KRGC to create, through rules and regulations, provisions regarding the suspension, revocation, or non-renewal of the certification for employees involved in sports wagering upon a finding the certificate holder has:

- Knowingly provided false or misleading material information to the Lottery, the KRGC, or employees of either;
- Been convicted of a felony, gambling-related offense, or any crime of moral turpitude;
- Intentionally violated any provision of any contract between the Lottery and the certificate holder; or
- Intentionally violated any provision of KELA or any rule and regulation adopted pursuant to KELA.

The bill states certification is not assignable or transferable.

Facility Inspection and Security Measures

The bill amends law regarding inspection by the executive directors of the Lottery and KRGC to include sports wagering operations. The bill adds to the powers of the KRGC Director the authority to examine books, papers, records, or memoranda of any business involved in electronic gaming machines, lottery facility games, or sports wagering operations.

The bill also adds sports wagering to provisions that require appropriate security measures approved by the KRGC Director.

Minimum Age

The bill prohibits any person under age 21 from directly or indirectly wagering on a sporting event.

Prohibited Wagers

The bill removes a provision that makes it a class A nonperson misdemeanor for the following persons to place a wager on an electronic gaming machine at a racetrack gaming facility and adds a provision making it a class A nonperson misdemeanor for the following persons to place a sports wager in the state:

- The Lottery Director, a member of the Lottery Commission, or any employee or agent of the Lottery;
- The Executive Director of the KRGC (KRGC Director), a member of the KRGC, or any employee or agent of the KRGC;
- A manager; any director, officer, owner, or employee of such manager; or any relative living in the same household as such persons;
- A platform; any director, officer, owner, or employee of such platform; or any relative living in the same household as such persons;

- Any owner, officer, athlete, coach, or other employee of a team; or
- Any director, officer, or employee of a player or referee union.

The bill establishes as a severity level 8 nonperson felony, knowingly placing a sports wager:

- As an agent or proxy for other persons;
- Using funds derived from illegal activity;
- To conceal money derived from an illegal activity;
- Through the use of other individuals to place wagers as part of any wagering scheme to circumvent any provision of federal or state law; or
- Using false identification to facilitate the placement of the wager or the collection of any prize in violation of federal or state law.

Gray Machines

The bill amends law on crimes concerning gray machines (defined in continuing law as devices used for gambling and not authorized by the Lottery) to provide that it is the duty of the Attorney General and KRGC to enforce such criminal provisions in statute and rules and regulations and that both have original jurisdiction to investigate and prosecute such violations.

Organizational Licenses

The bill amends law to establish a \$50 fee for a license for a nonprofit organization licensed by the KRGC (organization licensee) to conduct races and a \$25 licensee fee for each day of racing approved by the KRGC.

Greyhound Racing Restrictions

The bill amends law related to simulcast racing to prohibit the licensing for and displaying of simulcast greyhound races.

The bill further amends simulcast law to specify that any organization licensee that schedules to conduct at least 150 days of live greyhound racing or 60 days of live or simulcast horse racing in a calendar year, or a fair association that conducts fewer than 22 days of live greyhound racing or 40 days of live horse racing in a calendar year, may apply to the KRGC for a simulcasting license to display simulcast horse races and conduct intertrack parimutuel wagering.

The bill also amends simulcast law to remove provisions related to certain requirements of simulcast licenses granted to fair associations.

HEALTH

Amendments to Public Health Statutes, Kansas Emergency Management Act, and Student Health Statutes; Mask and Inoculation Requirements and Vaccination Passports; Sub. for SB 34

Sub. for SB 34 creates law regarding actions by governmental entities or public officials affecting face mask requirements as a response to a contagious or infectious disease and prohibits a COVID-19 vaccination passport from being required by any governmental entity or public official. The bill amends the Kansas Emergency Management Act (KEMA) and public health statutes regarding face mask requirements and judicial review of governmental action in response to state of disaster emergencies and state of local disaster emergencies. The bill removes the authority of the Secretary of Health and Environment (Secretary) or a local health officer to order any law enforcement officer of the state or any subdivision to assist in the execution or enforcement of any order regarding infectious and contagious diseases.

The bill also amends student health statutes regarding certification of tests or inoculations for first-time enrollment in a school or preschool or day care program operated by a school to specify the tests or inoculations the Secretary is prohibited from requiring.

Face Mask Requirements

Notwithstanding any law to the contrary, the bill prohibits any governmental entity or public official from ordering or otherwise requiring a person to wear a face mask as a response to a contagious or infectious disease, but such entity or official may recommend the wearing of face masks.

The provisions of this section do not apply to a governmental entity that is a medical care facility, as defined in KSA 65-425, or an adult care home, as defined in KSA 39-923. A medical care facility includes a hospital, ambulatory surgical center, or recuperation center, but does not include a hospice that is certified to participate in Medicare and that provides services only to hospice patients. An adult care home includes any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home, and adult day care facility.

Vaccination Passport Requirements

Notwithstanding any law to the contrary, the bill prohibits any governmental entity or public official from:

- Issuing a COVID-19 vaccination passport to any individual without such individual's consent;
- Requiring any individual to use a COVID-19 vaccination passport within this state for any purpose; or
- Denying housing to any individual or refusing access by any individual to a place accessible to the general public, or separating any individual from others in a

place accessible to the general public, including entry, education, travel, and services within this state, based on such individual's COVID-19 vaccination status.

The bill does not prohibit a governmental entity or public official from instituting COVID-19 screening protocols in accordance with state and federal law to protect public health.

The provisions of this section do not apply to a governmental entity that is a medical care facility, as defined in KSA 65-425, or an adult care home, as defined in KSA 39-923.

As used in this section, the bill defines the following:

- “COVID-19 vaccination passport” means written or electronic documentation of an individual's COVID-19 vaccination status; and
- “Screening protocol” means a non-invasive method to determine whether an individual has symptoms or other risk factors for developing COVID-19, including, but not limited to, temperature checks, self-reporting of exposure, self-reported vaccination status, and questionnaires.

Amendments to the Kansas Emergency Management Act

Face Mask Requirements

The bill specifies that neither the Governor nor a governmental entity or public official has the power under KEMA to order or otherwise require the wearing of face masks as a response to a contagious or infectious disease during a state of disaster emergency or state of local disaster emergency. This provision does not apply to a governmental entity that is a medical care facility, as defined in KSA 65-425, or an adult care home, as defined in KSA 39-923.

Judicial Review of Governmental Actions in Response to State of Disaster Emergencies and State of Local Disaster Emergencies

The bill amends the process of judicial review for actions filed by aggrieved parties in response to executive orders issued by the Governor during a state of disaster emergency under KEMA and for actions filed by aggrieved parties in response to actions taken by local units of government during a state of local disaster emergency under KEMA.

Under continuing law, when an aggrieved party files a civil action in district court in response to an executive order issued by the Governor or an action taken by a local unit of government, a court must issue an order on a petition filed pursuant to the section and grant the relief under certain circumstances. The bill replaces a requirement the court must issue the order within seven days with a requirement that the court issue its order without unreasonable delay after the hearing is conducted, and it removes language requiring relief be granted in the petition if the court's order is not issued within seven days.

Infectious or Contagious Diseases and Authority of Local Health Officer or Secretary

The bill removes the authority of the Secretary or a local health officer to order any sheriff, deputy sheriff, or other law enforcement officer of the state or any subdivision to assist in the execution or enforcement of any order regarding infectious and contagious diseases.

Amendments to Public Health Statutes

The bill clarifies that the power of local health officers under the public health statutes does not include the power to order a person to wear a face mask.

The bill also amends the judicial review process for actions filed by aggrieved parties against local boards of health in the same manner as elsewhere in the bill.

Amendments to Student Health Statutes

The bill amends law related to certifications for required tests and inoculations (immunizations) for first-time enrollment at schools and preschool or day care programs operated by a school to specify the Secretary is prohibited from deeming a test or inoculation necessary if it has not received full approval by the federal Food and Drug Administration for the age of the student to whom the requirement applies.

HOUSING

Rural Housing; Home Loans; Historic Structures; Appraisals of Property in Rural Counties; Urban Development; Child Day Care Services; HB 2237

HB 2237 creates several acts and amends law pertaining to economic development to address rural housing, home loans, historic structures, appraisals of property in rural counties, urban development, and child day care services.

Kansas Housing Investor Tax Credit Act

The bill enacts the Kansas Housing Investor Tax Credit Act (HITCA).

Purpose

The bill states the purpose of HITCA is to bring housing investment dollars to communities lacking adequate housing and that development of housing will complement economic development of rural and urban areas.

The bill further states that the purpose of tax credits issued under HITCA is to facilitate investment in suitable housing that will support the growth of communities lacking housing by attracting new employees, residents, and families, and will support the development and expansion of businesses that are job- and wealth-creating enterprises.

Definitions

The bill defines the following terms:

- “Director” means the Director of Housing of the Kansas Development Finance Authority;
- “Cash investment” means money or money equivalent in consideration for qualified securities as approved by the Director;
- “Corporation” means the Kansas Housing Resources Corporation (KHRC);
- “Qualified housing project” means a project for the construction of single-family residential dwellings, including manufactured housing, modular housing, multi-family residential dwellings, or buildings that are eligible as a project under HITCA;
- “Qualified housing project” does not mean a project eligible for low-income housing tax credits under state or federal law; and
- “Qualified securities” means a cash investment through any form of financial assistance, including equity, debt, or bank loans that have been approved by the Director.

The bill also defines the terms “act,” “city,” “county,” “Kansas investor,” “manufactured home,” “modular home,” and “qualified investor.”

Program Established

The bill establishes the HITCA within the KHRC, to be administered by the Director. The Director is authorized to issue tax credits to qualified investors who make cash investments in qualified housing projects, and to project builders and developers. The Director determines and issues tax credits to the projects that are most likely to provide the greatest economic benefit to and best meet the needs of the community lacking adequate housing where the project is located. The Director is required to give priority to Kansas investors when issuing tax credits.

Application

To be designated a qualified housing project, the bill requires the project builder or developer to apply to the Director on a form approved by the Director that includes:

- The name and address of the project builder or developer, and the names of all principals or management;
- Information required by the Director if the project builder or developer is seeking tax credits for such builder’s or developer’s cash investment in the project;
- A project plan, including a description of the project, timeline, housing to be constructed, intended market, costs, anticipated pricing, and any other relevant information the Director may require;
- An economic impact statement for the project;
- A description of all project financing, the amount of any tax credits requested, and earliest year the tax credits may be claimed;
- The amount, timing, and projected use of the proceeds to be raised from qualified investors;
- The names, addresses, and taxpayer identification numbers (TINs) of all investors who may qualify for the tax credit, with the requirement that such list be updated when necessary; and
- Any additional information the Director may require.

Considerations

The Director will be required to consider whether a project:

- Has community support and governing body support of the city or county where the project is located;
- Will enhance the community's ability to attract new businesses or expand existing businesses by providing housing directly for employees or make housing significantly more available, or meet other significant housing needs to make the community attractive to new or expanding businesses or their employees;
- Has the financial support, management, planning, and market to be successful;
- Has had a housing needs analysis or survey provided either by the project builder or developer or by the project's county or city governing body that supports proceeding with the proposed project;
- Has met all other requirements of the HITCA; and
- Has met such other requirements of the Director as adopted in rules and regulations.

Project Agreement

The Director, upon approval of an application, will enter into an agreement with the project builder or developer prior to issuing any tax credits. The agreement sets forth the amount of tax credits to be issued, the requirements for a cash investment, and the requirements for issuance of tax credits.

If the project builder or developer is approved for tax credits, the agreement is required to set forth the amount of approved credits and the amount of credits remaining for issuance to other qualified investors.

The agreement requires binding commitments by the project builder or developer to the KHRC for:

- Reporting progress and financial data, including investor information;
 - The project builder or developer is obligated to notify the Director in a timely manner of any changes in project qualifications or investor eligibility to claim a tax credit;
- The right of access to the project and financial records of the project builder or developer;
- The provision of information to be included in the economic development incentive program information database, pursuant to continuing law;
- Repayment requirements upon loss of designation as described in HITCA; and

- Any additional terms and conditions required by the Director.

Investment Reporting Requirements

To be eligible to receive tax credits, a qualified investor must make a cash investment in the project in accordance with the project agreement. The project builder or developer will be required to promptly report to KHRC the following information:

- The name, address, and TIN of each qualified investor who has made a cash investment in qualified securities in the project and has received tax credits for this investment during any and all preceding years;
- The amounts of the cash investments by each qualified investor and a description of the qualified securities issued in consideration of such cash investments;
- The name, address, and TIN of each person the original qualified investor transferred tax credits to; and
- Any additional information as required by the Director.

Any violation of reporting requirements will be grounds for loss of the designation as a qualified housing project.

Reimbursement of Costs, Liability, Rules and Regulations

The bill allows for reimbursement of costs related to HITCA administration, application review, and the issuance of tax credits. The reimbursement will be through fees paid by the qualified project, qualified investors, or transferees of investors, according to a reasonable fee schedule adopted by the Director.

The bill will preclude the State of Kansas from being held liable for any damages to any qualified investor who makes an investment in a qualified housing project.

The bill will require the Director to provide information regarding the qualified housing projects and qualified investors to the Secretary of Revenue.

The bill requires the Director to adopt rules and regulations as necessary to implement HITCA, and authorizes the Secretary of Revenue to adopt rules and regulations as necessary to implement and administer HITCA.

Income Tax Credit

For tax year 2022 and all tax years thereafter, the bill authorizes a tax credit to be claimed against:

- Kansas income tax liability;
- The privilege tax liability imposed upon any national banking association, state bank, trust company, or savings and loan company pursuant to continuing law; or
- The premium tax liability imposed upon an insurance company imposed by continuing law.

The tax credit may be claimed by:

- A qualified investor for a cash investment in a qualified housing project that has been approved and issued a tax credit by the Director;
 - The tax credit could be claimed in its entirety in the taxable year the cash investment is made; and
- A project builder or developer of a qualified housing project that has been approved and issued a tax credit by the Director.

To claim such tax credit, the qualified investor, or builder or developer, will be required to provide all information or documentation as required by the Secretary of Revenue. If the credit amount exceeds the taxpayer's tax liability in a taxable year, the remaining credit may be carried forward in the succeeding taxable years until the total credit amount is used, except that no credit may be claimed four taxable years after issuance, and any remaining credit will be forfeited.

Tax Credit Maximums

The Director will be allowed to issue tax credits as follows:

- Up to \$35,000 per residential unit for qualified housing projects located in a county with a population of not more than 8,000;
- Up to \$32,000 per residential unit for qualified housing projects located in a county with a population of more than 8,000, but not more than 25,000; and
- Up to \$30,000 per residential unit for qualified housing projects located in a county with a population of more than 25,000, but not more than 75,000.

The bill limits a qualified housing project to a total of 40 such residential units per year for both single-family and multi-family dwellings.

The bill allows tax credits to be issued to a qualified investor in the amount of a cash investment of up to the total amounts previously specified. Project builders or developers will be able to apply each year for tax credits for additional units or phases of a project, and qualified investors may be issued tax credits for cash investments in multiple qualified housing projects. Project builders or developers may also apply and be approved for multiple qualified housing projects in the same year.

The aggregate of tax credits that may be issued under HITCA could not exceed \$13.0 million each tax year. However, if the Director issues less than \$13.0 million in a tax year, the unissued balance may be carried forward one tax year and be issued in addition to the annual \$13.0 million. The Director will be required to allocate the following for qualified housing projects:

- Not less than \$2.5 million in tax credits in counties with a population of not more than 8,000;
- Not less than \$2.5 million in tax credits in counties with a population of more than 8,000, but not more than 25,000; and
- Up to \$8.0 million in tax credits in counties with a population of more than 25,000, but no more than 75,000.

Date of Cash Investment Acquisition

The bill specifies that a cash investment in a qualified housing project is considered made on the date the qualified security is acquired, as determined by the Director.

Transferable Tax Credit

The bill allows a qualified investor who receives a tax credit under HITCA but does not reasonably anticipate owing any such tax for the current taxable year to acquire a transferable tax credit, limited to the amount of the credit issued to the qualified investor. This tax credit may be transferred to any person and claimed as a credit against the recipient's Kansas tax liability in the same manner as the transferor, including carrying the tax credit forward. The tax credit may only be transferred one time and will have to be for the full amount of the tax credit, but may not include any interest.

The taxpayer claiming such credit will be responsible for providing documentation verifying the acquisition to the Secretary of Revenue. The transferor of the credit will be required to provide the Director and the Secretary of Revenue with the name, address, TIN, and other information as required of each transfer recipient.

Loss of Designation

If the Director determines a project is not in substantial compliance with HITCA or the project agreement, the Director must inform the project builder or developer in writing that the project will lose designation as a qualified housing project in 120 days from the date of mailing, unless the project is brought into compliance.

If the project is still non-compliant after the 120-day period, the Director must send a notice of loss of designation to the project builder or developer, the Secretary of Revenue, and all known qualified investors. Loss of designation will preclude the issuance of any additional tax credits for the project, and the Director is prohibited from approving any subsequent application for the project to be a qualified housing project.

Upon loss of the designation as a qualified housing project, the project builder or developer will be required to repay any tax credits they have claimed. Qualified investors will not have their tax credits disallowed solely due to the project losing its designation as a qualified housing project.

Annual Report

The bill requires the Director to transmit a report annually to the Governor, the Senate Committee on Commerce, and the House Committee on Commerce, Labor and Economic Development. The bill requires the report to be based upon information received from each qualified housing project issued tax credits during the preceding tax year and to describe the following:

- How the purpose of the HITCA has been carried out;
- The total cash investments made for qualified securities in qualified housing projects during the preceding tax year and cumulatively;
- An estimate of jobs facilitated by housing developed under HITCA;
- An estimate of the multiplier effect on the Kansas economy of the investments;
- The amount of tax credits claimed in the previous fiscal year;
- A general description of the investors that benefited from the tax credits; and
- Any aggregate job creation or capital investment in Kansas resulting from the tax credits for the preceding five years.

The bill requires the report to be transmitted on or before January 31, 2023, and on or before January 31 of each year thereafter.

Director Review

The bill requires the Director to annually review activities under HITCA to ensure tax credits issued pursuant to HITCA are done in compliance with HITCA and adopted rules and regulations.

Kansas Affordable Housing Tax Credit Act

The bill establishes the Kansas Affordable Housing Tax Credit Act (AHTCA).

Definitions

The bill defines the following terms:

- “Credit” means the affordable housing tax credit allowed pursuant to AHTCA;
- “Pass-through” entity” means any limited liability company, limited partnership, or limited liability partnership;
- “Qualified allocation plan” means the qualified allocation plan adopted by KHRC pursuant to Section 42(m) of the federal Internal Revenue Code (IRC);
- “Qualified development” means a qualified low-income housing project as defined in Section 42 of the federal IRC that is located in Kansas and determined by KHRC to be eligible for a federal tax credit; and
- “Qualified taxpayer” means an individual, person, firm, corporation, or other entity owning an interest in a qualified development and subject to applicable Kansas taxes.

The bill also defines the terms “act,” “allocation certificate,” “credit period,” “director,” “federal tax credit,” “KHRC,” and “pass-through certification.”

Tax Credit Authorized

For tax year 2023 and all tax years thereafter, the bill authorizes a tax credit to be claimed against:

- Kansas income tax liability;
- The privilege tax liability imposed upon any national banking association, state bank, trust company, or savings and loan company pursuant to continuing law; or
- The premium tax liability imposed upon an insurance company pursuant to continuing law.

The tax credit will be for each qualified development for each year of the credit period in an amount equal to the federal tax credit allocated or allowed by the KHRC to such qualified development. The bill does not allow a reduction in the credit allowable in the first year of the credit period due to the calculation in Section 42(f)(2) of the IRC.

The KHRC will be required to issue an allocation certificate to an owner of a qualified development receiving a credit under the AHTCA, to be issued simultaneously with issuance of federal form 8609, related to federal tax credits.

The bill requires all allocations to be made pursuant to the qualified allocation plan.

Pass-through Entities

The bill allows pass-through entities that are owners of a qualified development and receiving a tax credit under AHTCA to allocate the credit among its partners or members in any manner agreed upon, regardless of whether:

- Any such person is allocated or allowed any portion of any federal tax credit with respect to the qualified project;
- Allocation of the credit under the terms of the agreement has substantial economic effect within the meaning of Section 704(b) of the federal Income Tax Code; or
- Any such person is deemed a partner for federal income tax purposes, if the partner or member would be considered a partner or member under applicable state law governing such entity and has been admitted as a partner or member on or prior to the date for filing the qualified taxpayer's tax return, including any amendments to such tax return, with respect to the year of the credit.

The bill allows the tax credit to be allocated through any number of pass-through tiers and entities, none of which would be considered a transfer.

The bill requires any pass-through entity allocating a credit to its partners or members to attach a pass-through certification to its annual tax return. Each partner or member is allowed to claim or further allocate such amount pursuant to any restrictions in the AHTCA.

Each qualified development owner and taxpayer receiving a tax credit or portion of such credit will be required to file with their state income, privilege, or premium tax return a copy of the allocation certificate issued by KHRC and a copy of any pass-through certification as prescribed by the Director of Taxation.

Restrictive Covenants

To receive a tax credit under AHTCA, the bill requires the qualified development to be the subject of a restrictive covenant requiring the development to:

- Be maintained and operated as a qualified development; and
- Be in accordance with accessibility and adaptability requirements of the federal tax credits and Title VIII of the federal Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

The covenant is required for a period of 15 years, or such longer period as may be agreed upon by KHRC and the qualified development owners.

Credits Carried Forward

The bill allows any credit amount in excess of the taxpayer's tax liability to be carried forward as a credit against their subsequent year tax liability for up to 11 tax years. The tax credit is applied first to the earliest years possible. Any unused tax credit amount will not be refunded to the taxpayer.

Eligibility Determination

The bill requires the KHRC to determine eligibility for a tax credit, and to allocate credits in accordance with Section 42 of the federal IRC. The bill requires any combination of federal tax credits and AHTCA tax credits to be the least amount necessary to ensure the qualified development's financial feasibility.

Credits Subject to Recapture

The bill requires the recapture of a portion of any credits authorized under AHTCA if a portion of any federal tax credits taken on a qualified development is recaptured or otherwise disallowed. The percentage of AHTCA credits to be recaptured will be equal to the percentage of federal credits subject to recapture or otherwise disallowed.

The recapture or disallowance of credits will increase the tax liability of the qualified taxpayer claiming the credits for the taxable year the recapture or disallowance event is identified.

Rules and Regulations

The bill authorizes the KHRC and the Director of Taxation, in consultation with each other, to promulgate rules and regulations necessary to administer AHTCA.

Annual Report

The bill requires the KHRC, in consultation with the Director of Taxation, to monitor and oversee compliance with AHTCA and to report any noncompliance to the Director of Taxation.

KHRC is required to submit a written report to the Legislature on or before December 31 of each year including:

- The number of qualified developments allocated credits during the allocation year and the total number of units supported by each development;
- A description of each qualified development, including the geographic location, household type, any specific demographic and income information about residents served, and the rents or set-asides authorized for each development; and

- Housing market and demographic information that demonstrates how the qualified developments are addressing the need for affordable housing in the communities, including any remaining disparities in the community's affordable housing.

Historic Kansas Act

The bill creates the Historic Kansas Act, which modifies and establishes certain tax credits for older commercial structures in the state.

Older Structures Tax Credit

The bill establishes, for all taxable years starting after December 31, 2021, a tax credit against a tax liability imposed upon a taxpayer by the Kansas Income Tax Act, the financial institutions privilege tax, or the premium tax, of 10 percent of costs and expenses incurred for the restoration and preservation of a commercial structure at least 50 years old that does not receive the continuing Historic Structures Tax Credit (KSA 79-32,211). This tax credit for costs and expenses will be limited to \$10.0 million annually. An additional 10 percent tax credit of costs and expenses will be allowed for the installation of fire suppression materials or equipment by a taxpayer.

Required costs and expenses. The bill requires the total amount of costs and expenses to equal at least \$25,000, but not exceed \$500,000.

Allowable carry over. The bill provides that if the tax credit exceeds the taxpayer's income, privilege, or premium tax liability for the year in which the rehabilitation was completed, the excess amount may be carried over for deduction in the next year or years until the total amount of the credit has been deducted from tax liability, except no credit may be carried forward after the tenth taxable year succeeding the taxable year in which the rehabilitation plan was placed in service.

Financial institutions. The bill requires financial institutions subject to the privilege tax (e.g., banks, savings and loan associations, and savings banks) to pay taxes on 50 percent of the interest earned on loans to taxpayers used for costs and expenses for the restoration and preservation of a commercial structure at least 50 years old or for the installation of fire suppression materials or equipment.

Corporations. The bill details, for purposes of a corporation having an election in effect under subchapter S of the federal IRC, the entities that may claim the tax credits.

Transfer of tax credits. The bill allows for the transfer of tax credits. The taxpayer acquiring credits (assignee) will be able to use the amount of the acquired credits to offset up to 100 percent of the assignee's income, privilege, or premium tax liability for either the taxable year in which the costs and expenses were made. The bill allows unused credit amounts claimed by the assignee to be carried forward for up to five years, with all credits being claimed within ten years following the tax year in which the costs and expenses were made. The bill requires the assignee and assignor to enter into a written agreement, including terms and conditions of the agreement.

One type of credit for one structure. The bill prohibits a person claiming a tax credit under the provisions of the bill from claiming a tax credit for the same structure under the continuing Historic Structures Tax Credit.

Rules and regulations – Department of Revenue. The bill authorizes the Director of Taxation to adopt rules and regulations necessary for the efficient and effective administration of the provisions of this section of the bill.

Historic Structures Tax Credit – Amendments

The bill amends the Historic Preservation Tax Credit by adding two tax credits, pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of expenditures equals \$5,000 or more. The credits will equal:

- 30 percent of qualified expenditures incurred in the restoration and preservation of a qualified historic structure located in a city with a population between 9,500 and 50,000; and
- 40 percent of qualified expenditures incurred in the restoration and preservation of a qualified historic structure located in a city with a population of less than 9,500.

Under continuing law, a historic structures tax credit is permitted for 25 percent of qualified expenditures for restoration and preservation if the total amount of expenditures equals \$5,000 or more.

Cap on tax credits. The bill eliminates the cap on allowable tax credits of \$3.75 million.

Financial institutions. The bill requires the financial institutions specified in the bill to pay taxes on 50 percent of the interest earned on loans to qualified taxpayers used for qualified expenditures for the restoration and preservation of a qualified historic structure.

Rules and regulations – State Historical Society. The bill authorizes the Executive Director of the Kansas State Historical Society to adopt rules and regulations necessary for the efficient and effective administration of the provisions of this section of the bill.

Kansas Rural Home Loan Guarantee Act

The bill enacts the Kansas Rural Home Loan Guarantee Act (Act). The provisions of the Act will be administered by the KHRC, and loan transactions eligible for a guarantee will include the construction or renovation of a single-family home in a rural county. The total amount of loans guaranteed under the Act will be limited to \$2.0 million. The loan amount to be guaranteed cannot exceed \$100,000 per unit.

Definitions

The bill establishes definitions for the following terms under the Act:

- “Financial institution” means any bank, trust company, savings bank, credit union, savings and loan association, or any other lending institution that is approved by the KHRC;
- “Loan” means a transaction with a financial institution to provide financing for the construction or renovation of a single-family home in a rural county; and
- “Rural county” means any county in Kansas with a population of less than 10,000, as certified to the Secretary of State on July 1 of the preceding year.

Loan Guarantees Against Risk of Default for Rural Housing Loans; State Housing Trust Fund; Administration of the Act

The bill authorizes the KHRC to enter into agreements with financial institutions to provide loan guarantees against risk of default for rural housing loans, as provided in this act. The bill includes a provision specific to the filing of a claim related to a payment for loan guarantee under the State Housing Trust Fund (Fund).

In addition, the bill requires eligible financial institutions to apply all usual lending standards to determine the creditworthiness of eligible borrowers. The financial institution originating the loan will be responsible for monitoring the loan and, in the case of default, working with the borrower to obtain collateral. The bill specifies the financial institution will be in the first position, and the State in the second position, to recover on the loan.

The KHRC will be required to administer provisions and the Act and to adopt rules and regulations for the Act’s implementation, including the development of an application process. The loan guarantee agreement for this program will be required to include reporting requirements and financial standards that are appropriate for the type of loan for the borrower. The KHRC will be permitted to impose fees and charges, as necessary, to recover administrative costs.

Loan Agreements, Backing by the Fund; Appraised Value

The bill provides that each agreement entered into by the KHRC to guarantee against default on a loan transaction must be backed by the Fund and must receive prior approval by the KHRC or its designee.

The bill specifies eligible costs for the loan transactions subject to the Act, including:

- Land and building purchases;
- Renovation and new construction costs;
- Equipment and installation costs;
- Pre-development costs that may be capitalized;
- Financing;
- Capitalized interest during construction; and
- Consultant fees that do not include staff costs.

The bill provides that the portion of the loan guaranteed by the KHRC must be for the amount of the loan that exceeds 80 percent of the appraised value of the home. The bill further provides that no loan amount above 125 percent of the appraised value of the home may be guaranteed by the KHRC.

The bill specifies that the total amount of loans guaranteed by the KHRC may not exceed \$2.0 million and limits the loan amount guaranteed per unit to \$100,000. The bill includes provisions relating to the fees and charges received by the KHRC under the Act. Each receipt will be deposited to the credit of the Fund.

Reporting to the Legislature

The bill also requires the KHRC, beginning with the 2023 Legislative Session, to annually prepare a report of activity related to the Act that will include new loans, loan repayment status, and other relevant information regarding these activities. The bill requires the report to be submitted at the beginning of each regular session to the House Committee on Appropriations or the appropriate budget committee and the Senate Committee on Ways and Means or the appropriate subcommittee.

Residential Real Estate Appraisals in Rural Counties

The bill authorizes appraisers to exclude the sales comparison approach in rural county mortgage financing appraisals if the property is unique in style or square footage, or both, and if there exists a lack of available comparable sales within 30 miles of the property.

The bill requires the appraiser, in the appraisal report, to provide an explanation of the reasons for exclusion of the sales comparison approach and requires the appraiser to document the appraiser's efforts to obtain comparable sales or market data.

The bill prohibits a financial institution from declining to proceed with a mortgage finance transaction due to exclusion of the sales comparison approach, unless the approach is required for such mortgage finance transaction loan to be guaranteed or sold in the secondary market.

The bill defines the following terms:

- “Financial institution” means a bank, national banking association, savings and loan association, savings bank, trust company, credit union, finance company, or other lending institution; and
- “Rural county” means any county in Kansas with a population of less than 10,000, using census data certified to the Secretary of State pursuant to KSA 11-201.

Kansas Rural Housing Incentive District Act Amendments

The bill amends the Kansas Rural Housing Incentive District Act (RHID Act) to expand the use of bond proceeds and other funds under the Act to include residential renovation of the second or higher floors of buildings more than 25 years old within economically distressed

urban areas, regardless of the population of the city or county containing the economically distressed urban area.

“Economically distressed urban areas” under the RHID Act will be as defined and designated by the U.S. Department of Housing and Urban Development.

Under continuing law, the RHID Act authorizes cities and counties under certain population thresholds to issue special obligation bonds to finance infrastructure and renovation costs for housing projects. The bill adds the City of Topeka, regardless of population, to the definition of “city” in the RHID Act.

Child Day Care Services Tax Credit

The bill allows any income or privilege taxpayer to claim the child day care services tax credit and permits taxpayers to claim 50 percent of expenditures paid to an organization providing child care to the taxpayer’s employees beginning in tax year 2021. Current law limits the credit to corporation income taxpayers and does not permit the credit for payments made to organizations.

JUDICIARY

Fingerprinting for Criminal Record Checks; Surveillance by KDWP; Jurisdiction of Law Enforcement Officers; Search Warrant Time Limitations; Disclosure of CINC Information; Senate Sub. for HB 2495

Senate Sub. for HB 2495 creates and amends law related to fingerprinting for criminal history record checks, surveillance by Kansas Department of Wildlife and Parks employees, jurisdiction of law enforcement officers, the time period within which a search warrant must be executed, and disclosure of information to law enforcement agencies regarding a child alleged or adjudicated to be a child in need of care. [Note: Senate Sub. for HB 2495 contains the contents of HB 2299 as agreed to by the Conference Committee on March 30, 2022, without amendment, and repeals HB 2299, as signed by the Governor on April 18, 2022.]

Fingerprinting for Criminal History Record Check—Rap Back Programs

The bill creates law requiring an applicant, employee, or volunteer subject to a criminal history record check to provide to the requesting authorized entity written consent to obtain such person's fingerprints to conduct a criminal history record check and participate in the Rap Back Program for the purpose of determining suitability or fitness for a permit, license, employment, or volunteer service.

[Note: As defined by the bill, "authorized entity" means an agency or entity with authorization under state or federal law to conduct a fingerprint-based criminal history record check, and "rap back" means the state or federal system that enables an authorized entity to receive ongoing notifications of criminal history record updates for individuals whose fingerprints are enrolled.]

The bill requires an authorized entity to notify each such person that fingerprints shall be retained by the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for all current and future purposes and uses authorized for fingerprint submission and when fingerprints will be enrolled in the Rap Back Program.

The bill requires fingerprints and related records obtained by the KBI for a fingerprint-based criminal history record check to be searched against known criminal fingerprints to determine if a criminal history record exists and against latent fingerprints entered into the unsolved latent fingerprint file.

The bill specifies a criminal history record check can only be completed for the purpose for which the check was requested and requires submission of a new set of fingerprints for any additional record checks. An authorized entity enrolled in the Rap Back Program is required to immediately notify the KBI when the entity is no longer entitled to receive criminal history record information relating to a particular person enrolled in the Rap Back Program. The KBI is required to cancel such enrollment, and updates to criminal history record information will no longer be provided to such entity.

The bill limits availability of fingerprints and records relating to fingerprints acquired by the KBI to only the authorized entities entitled to obtain the information and prohibits KBI employees from disclosing any records of or related to fingerprints acquired in the performance of duties under the bill to any person not authorized to receive the information pursuant to state or federal law. The bill prohibits a person acquiring the records of or relating to fingerprints, or

any information concerning any individual, from disclosing such information to any person who is not authorized to receive such information, and any intentional disclosure of such information is a class A nonperson misdemeanor.

In addition to “authorized entity” and “rap back,” the bill also defines “criminal history record check.”

Surveillance by Kansas Department of Wildlife and Parks Employees

The bill creates law concerning the authority of the Kansas Department of Wildlife and Parks (KDWP) to conduct surveillance on private property.

The bill prohibits KDWP employees who are authorized to enforce the laws of the State from conducting surveillance on private property unless authorized pursuant to a lawfully issued warrant, court order, or subpoena, the *U.S. Constitution*, or an exception to the search warrant requirement specified by the bill.

The bill specifies that the above prohibition on certain KDWP employees does not apply to any activities of an employee of KDWP when the purpose of the surveillance is to locate and retrieve a missing person.

Definitions

The bill defines the following terms:

- “Surveillance” means the installation and use of electronic equipment or devices on private property, including, but not limited to, the installation and use of a tracking device, video camera, or audio recording device, to monitor activity or collect information related to the enforcement of the laws of the State; and
- “Tracking device” has the same definition as in continuing law in the Kansas Code of Criminal Procedure, which defines the term to mean an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object; it includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and that allows for real-time monitoring of movement.

Jurisdiction of Law Enforcement Officers

The bill amends law regarding the jurisdiction and powers of law enforcement officers, as follows.

Powers and Authority of Law Enforcement Officers Without Statewide Jurisdiction

The bill amends a statute governing jurisdiction of various law enforcement officers to provide a new subsection consolidating and clarifying the ability of law enforcement officers who

do not otherwise have statewide jurisdiction to exercise the powers and authority of law enforcement officers anywhere when:

- A request for assistance has been made by law enforcement officers from the area for which assistance is requested;
- The officer is in fresh pursuit of a person;
- Transporting persons in custody to an appropriate facility, wherever such facility may be located; and
- Investigating a crime that occurred within the law enforcement officer's jurisdiction, with appropriate notification to and coordination with a local law enforcement agency with jurisdiction where the investigation is to be conducted.

The bill makes conforming technical amendments to reflect the reorganization of the section. The bill also amends a statute governing school security officers and campus police officers to remove redundant language regarding the powers and authority of campus police officers that are included in the new subsection added by the bill.

Powers and Authority of Law Reinforcement Officers Outside Their Jurisdiction

In addition to the authority described above, the bill provides that law enforcement officers may exercise the powers and authority of law enforcement officers when outside their statutory jurisdiction when an activity is observed leading the officer to reasonably suspect a person is committing, has committed, or is about to commit a crime and reasonably believe that a person is in imminent danger of death or bodily injury without immediate action, subject to conditions specified by the bill.

Search Warrant Time Limitations

The bill amends the Code of Criminal Procedure to extend, from 96 hours to 240 hours, the time period within which a search warrant must be executed after it is issued.

Disclosure of CINC Information to Law Enforcement Agencies

The bill amends a law governing access, exchange, and disclosure of information in the Revised Kansas Code for Care of Children to require the Secretary for Children and Families to disclose confidential agency records of a child alleged or adjudicated to be a child in need of care (CINC) to the law enforcement agency investigating the alleged or substantiated report or investigation of abuse or neglect, regardless of the disposition of such report or investigation.

The bill requires the records to include, but not be limited to:

- Any information regarding such report or investigation;

- Records of past reports or investigations concerning such child and such child's siblings and the perpetrator or alleged perpetrator; and
- The name and contact information of the reporter or persons alleging abuse or neglect and case managers, investigators, or contracting agency employees assigned to or investigating such report.

The bill states that such records shall only be used for the purposes of investigating the alleged or substantiated report or investigation of abuse or neglect.

The bill clarifies that a law enforcement agency investigating or receiving a report of a child who is alleged or adjudicated to be in need of care is able to freely exchange information and the above-described records with persons or entities specified in continuing law.

The bill adds an investigating law enforcement agency to the lists of persons or entities with access to the official and social files of a CINC proceeding.

LAW ENFORCEMENT

Election of County Sheriffs Constitutional Amendment; HCR 5022

HCR 5022, if approved by a majority of Kansas voters, would amend Article 9, Sections 2 and 5 of the *Kansas Constitution* to add language concerning the election of county sheriffs and removal of a sheriff from office.

The constitutional amendment would require the election of a county sheriff in counties that had not abolished the office of sheriff before January 11, 2022, and specify that a sheriff be elected in such counties for a term of four years. [Note: Riley County abolished its sheriff's office in 1974 and is the only county in Kansas without a sheriff.]

The amended section would state any county that had abolished the office of sheriff prior to January 11, 2022, would be authorized to restore the office of sheriff as provided by law, and such restoration would be irrevocable.

The amendment would also specify that a county sheriff only may be involuntarily removed from office by a recall election pursuant to Article 4, Section 3 of the *Kansas Constitution* or a writ of *quo warranto* initiated by the Attorney General.

The resolution requires the following explanatory statement be printed on the ballot with the text of the amendment if it is submitted to voters for their approval:

This amendment would preserve the right of citizens of each county that elected a county sheriff as of January 11, 2022, to continue electing the county sheriff. The amendment would also provide that a county sheriff only may be involuntarily removed from office pursuant to either a recall election or a writ of *quo warranto* initiated by the attorney general.

A vote for this proposition would preserve the right of citizens of each county that elected a county sheriff as of January 11, 2022, to continue electing the county sheriff via popular vote. The amendment would also direct that a county sheriff only may be involuntarily removed from office pursuant to either a recall election or a writ of *quo warranto* initiated by the attorney general.

A vote against this proposition would not make any changes to the constitution and would retain current law concerning the election of a sheriff and the procedures for involuntary removal of a sheriff from office.

The resolution requires the proposed constitutional amendment to be submitted to voters at the general election in November 2022.

LEGISLATURE

Technical Bill—Reconciling Amendments to Statutes; Senate Sub. for HB 2492

Senate Sub. for HB 2492 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 amends the continuing version with noncontradictory amendments from the repealed version to create a single version of the statute containing all amendments.

RETIREMENT

KPERS Layering Payment and Supplemental Contribution; SB 421

SB 421 transfers \$1.125 billion from the State General Fund (SGF) directly to the Kansas Public Employees Retirement System (KPERS) Trust Fund. Of that amount, the first \$253.9 million SGF pays off outstanding accounts receivable for KPERS-School employer contributions withheld in FY 2017 and FY 2019 (“layering payments”) while the remaining \$871.1 million SGF is applied to the KPERS-School unfunded actuarial liability.

The bill transfers \$853.9 million in FY 2022 in two installments: \$553.9 million on the effective date of the bill (*i.e.*, upon publication in the *Kansas Register*) and \$300.0 million on June 1, 2022. The remaining \$271.1 million will be transferred in FY 2023 in two installments, both subject to approval, but not modification, from the State Finance Council: \$146.1 million on August 1, 2022, and \$125.0 million on December 1, 2022.

The schedule of payments is summarized below:

SB 421 Payment Schedule by Fiscal Year*	
FY 2022	
KPERS Layering Payment (effective date of the bill)	\$ 253,866,022
KPERS-School (effective date of the bill)	300,000,000
KPERS-School (June 1, 2022)	300,000,000
Subtotal–FY 2022	\$ 853,866,022
FY 2023	
KPERS-School (August 1, 2022)**	\$ 146,133,978
KPERS-School (December 1, 2022)**	125,000,000
Subtotal–FY 2023	\$ 271,133,978
GRAND TOTAL	\$ 1,125,000,000

* While the Conference Committee used rounded estimates in its discussions, the numbers represented here and in the Conference Committee Report reflect exact amounts.

** The bill authorizes the State Finance Council to stop these payments upon approval of a resolution.

The bill also updates provisions in law relating to employer contributions and contribution rates for State and School employers by removing references to the repayment schedule for the delayed contributions, which previously required these contributions to be paid on a level-dollar basis over a 20-year period. [Note: These periods began in FY 2018 and FY 2020.]

STATE FINANCES

State Budget—Omnibus Appropriations; HB 2510

HB 2510, the Omnibus Appropriations Bill, includes various mid-year expenditure adjustments as well as funding for bills enacted by the 2022 Legislature. [Note: The bill does not include funding for K-12 education, which is contained in Senate Sub. for HB 2567.]

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

FY 2022 Adjustments

The bill adds \$390.3 million; including \$373.7 million from the State General Fund (SGF) for FY 2022. Items include:

- Department of Administration – Adds \$332.2 million SGF for the early payoff of Series 2015A and 2015G bonds;
- Office of the Governor – Adds \$15.0 million, from federal American Rescue Plan Act of 2021 (ARPA) funds, to provide funding to nursing facilities to cover rising costs associated with staffing shortages for facilities;
- Human Services Caseloads – Adopts the Governor’s Budget Amendment (GBA) No. 2, Item 1 for Human Services Caseloads to add \$110.4 million, including the deletion of \$12.6 million SGF; and
- Kansas Bureau of Investigation – Adds \$41.5 million SGF for the early payoff of bonds related to the Forensic Science Laboratory.

FY 2023 Adjustments

The bill adds \$119.8 million, including \$60.1 million SGF, for FY 2023, for items including those listed below.

Human Services:

- **Kansas Department for Aging and Disability Services** – Adds \$10.0 million SGF to fund 988 hotline operations. The bill includes language to lapse the funding if House Sub. for SB 19 is enacted.
- **Kansas Commission on Veterans Affairs Office** – Adopts GBA No. 2, Item 4, to add language for updated debt service estimates for a new veterans home and increase the bonding authority for the project up to \$17.2 million SGF.
- **Human Services Caseloads** – Adds \$221.5 million, including \$61.3 million SGF, to adopt GBA No. 2 Item 1 for Human Services Caseloads.

General Government:

- **Office of the Governor** – Adds \$62.9 million, all from federal and special revenue funds, including:
 - \$25.8 million, all from federal ARPA funds, for certain state universities, community colleges, and technical colleges; and
 - \$35.6 million, including \$34.6 million from federal ARPA funds, for other housing and economic development projects.
- **Judicial Branch** – Adds \$17.3 million SGF and deletes \$17.3 million from special revenue funds for FY 2023 to account for the provisions of HB 2541, which redirects deposit of the judicial surcharge and docket fees to the SGF.
- **Legislature** – Adds \$5.1 million SGF and 6.0 full-time equivalent positions to assist with the KLISS modernization project for FY 2023.
- **Salary Adjustments:**
 - Adds \$4.0 million SGF to provide a 5.0 percent salary adjustment to participants in the 24/7 pay plan who did not receive a base salary adjustment;
 - Adds \$841,113 SGF as aid to local community corrections agencies for the purpose of providing a 5.0 percent salary increase consistent with the statewide pay increase; and
 - Adds \$1.0 million, including \$800,000 SGF, to restore the 5.0 percent salary adjustment for the Board of Indigents' Defense Services and the State Fire Marshal.

Higher Education:

- **Board of Regents** – Adds \$12.5 million SGF to the Postsecondary Education Operating Grant for FY 2023 and removes the language in House Sub. for Sub. for SB 267 to not increase tuition.
- **Wichita State University** – Transfers \$10.0 million, all from federal ARPA funds, from the Office of the Governor to the federal Digital Transformation Fund.

Agriculture and Natural Resources:

- **Kansas State Fair** – Adds \$14.6 million SGF for FY 2023 to update the Bison Arena (\$10.0 million), mill and overlay asphalt areas (\$2.5 million), and complete other projects (\$2.0 million).

Summary of Approved FY 2022 and FY 2023 Revenue Adjustments

FY 2022

- Transfers an additional \$250.0 million from the SGF to the Budget Stabilization Fund for a total transfer of \$750.0 million in FY 2022; and
- Transfers \$4.0 million to the Job Creation Program Fund to prepare land for economic development associated with enactment of the Attracting Powerful Economic Expansion Act (APEX), SB 347.

FY 2023

- Transfers \$3.5 million from the SGF to the STAR Bond Sales Tax Refund Fund to defray the cost of reducing the food sales tax; and
- Deletes \$26.4 million in SGF receipts for HB 2237, which extends the Rural Opportunity Zone program and provides for additional child care tax benefits.

The summary table on the following page reflects all changes to SGF receipts and SGF expenditures contained in HB 2510.

STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

HB 2510 – Profile (Dollars in Millions)

	Actual FY 2021	HB 2510 FY 2022	HB 2510 FY 2023
Beginning Balance	\$ 495.0	\$ 2,094.8	\$ 2,131.1
Receipts (November 2021 Consensus)	8,867.6	8,802.9	9,455.7
Governor's Revenue Adjustments	0.0	0.0	(10.0)
Legislative Tax Adjustments	0.0	0.0	(26.4)
Legislative Receipt Adjustments	0.0	(254.0)	(3.5)
Adjusted Receipts	8,867.6	8,548.9	9,415.8
Total Available	\$ 9,362.6	\$ 10,643.7	\$ 11,546.9
Less Expenditures	7,267.8	8,592.6	4,698.8
Education GBA	0.0	11.1	30.0
Senate Sub. for HB 2567 - Education	0.0	(91.1)	4,450.3
Ending Balance	\$ 2,094.8	\$ 2,131.1	\$ 2,367.8
Ending Balance as a % of Expenditures	28.8 %	25.0 %	25.8 %

[Note: This profile includes FY 2022 adjustments and FY 2023 expenditures for the State Department of Education and aid to school districts included in Senate Sub. for HB 2567.]

STATE GOVERNMENT

Medical Assistance Program; Powers of the Governor in Kansas Emergency Management Act; HB 2387

HB 2387 creates law related to the medical assistance program and amends law regarding the powers of the Governor in the Kansas Emergency Management Act (KEMA).

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

Medical Assistance Program

The bill creates law stating that, on or before January 31, 2023, no state agency, including the Governor, shall:

- Issue a request for proposal for the administration and provision of benefits under the medical assistance program; or
- Enter into any new contract with managed care organizations for the administration and provision of benefits under the medical assistance program.

The bill requires, except to the extent prohibited by 42 USC § 1396u-2(a)(2) or other federal law, the Secretary of Health and Environment to continue to administer medical assistance benefits using managed care entities as described in 42 USC § 1396u-2.

These provisions expire on January 31, 2023.

Powers of the Governor In KEMA

The bill amends a statute in KEMA addressing the powers of the Governor to specify that continuing limits on the Governor's power regarding firearms or ammunition apply under KEMA or any other law. The bill also states the Governor shall not have the power or authority under KEMA or any other law to prohibit attending or conducting any religious service or worship service in a church, synagogue, or place of worship.

TAXATION

Food Sales Tax; HB 2106

HB 2106 amends law related to sales tax on food.

Food Sales Tax Rate

Beginning January 1, 2023, the bill reduces the state sales and compensating use tax rate on food and food ingredients from 6.5 percent to 4.0 percent. The rate will be further reduced to 2.0 percent on January 1, 2024, and reduced to 0.0 percent on January 1, 2025.

“Food and food ingredients” are defined to include bottled water, candy, dietary supplements, soft drinks, and food sold through vending machines and to exclude alcoholic beverages, tobacco, and most prepared foods.

Local Sales Tax on Food

The bill provides that sales of food and food ingredients are subject to sales taxes imposed by cities and counties and that all sales subject to sales taxes imposed by cities and counties are subject to sales taxes imposed by Washburn University.

Distribution of Sales Tax Revenue to the State Highway Fund

The bill changes the percentage of sales tax revenue distribution to provide the State Highway Fund with 17.0 percent of sales and use tax receipts beginning January 1, 2023, and 18.0 percent of sales and use tax receipts beginning January 1, 2024.

Food Sales Tax Credit

The bill sunsets the food sales tax credit at the end of tax year 2024.

Fiscal Effects

The Department of Revenue estimates the bill will reduce state revenues by \$77.4 million in FY 2023, \$252.4 million in FY 2024, \$411.5 million in FY 2025, and \$500.8 million in FY 2026.

Of those amounts, State General Fund receipts are expected to be reduced by \$82.0 million in FY 2023, \$246.2 million in FY 2024, \$414.5 million in FY 2025, and \$494.4 million in FY 2026. State Highway Fund receipts are expected to increase by \$4.6 million in FY 2023, decrease by \$6.2 million in FY 2024, increase by \$3.0 million in FY 2025, and decrease by \$6.4 million in FY 2026.

TRANSPORTATION AND MOTOR VEHICLES

Autonomous Vehicles; SB 313

SB 313 permits operation of driverless-capable vehicles without a human driver with the automated driving system engaged under certain circumstances. Provisions added by the bill will be added to the Uniform Act Regulating Traffic on Highways.

Definitions (Section 1)

For purposes of the bill, the bill defines “automated driving system or ADS,” “ADS-equipped vehicle,” “conventional human driver,” “driverless-capable vehicle,” “dynamic driving task,” “minimal risk condition,” “on-demand driverless-capable vehicle network,” “operational design domain,” and “transportation for hire.”

Operations of Driverless-capable Vehicles (Section 2)

The bill permits operation of a driverless-capable vehicle without a conventional human driver with the ADS engaged if the vehicle:

- Is capable of achieving a minimal risk condition (meaning a reasonably safe state that renders the system unable to perform the dynamic driving task, including moving the vehicle to the shoulder, stopping, and activating emergency signal lamps) if a malfunction of the automated driving system occurs;
- Is capable of operating in compliance with applicable traffic and motor vehicle safety laws;
- Bears the required manufacturer’s certification label indicating compliance with federal motor vehicle safety standards, when required by federal law, including any reference to any exception granted by the National Highway Traffic Safety Administration;
- Does not exceed 34,000 pounds on tandem axles, until July 1, 2025; and
- Carries a conventional human driver for 12 consecutive months from the date an entity places the driverless-capable vehicle into service in Kansas, unless the vehicle is not designed, intended, or marketed for human occupancy or the vehicle lacks manual controls.

The bill requires the owner of a driverless-capable vehicle to submit a law enforcement interaction plan to the Kansas Highway Patrol (KHP) before operating the driverless-capable vehicle on public roads in Kansas. The bill requires the law enforcement interaction plan to describe:

- How to communicate with a fleet support specialist available when the vehicle is in operation and on which side of the vehicle the contact information is visible;

- Information regarding safety considerations for first responders in dealing with the driverless-capable vehicle as the result of collision or fire;
- How to recognize whether the driverless-capable vehicle is in autonomous mode; and
- Any additional information the manufacturer or owner deems necessary regarding hazardous conditions or public safety risks associated with operation of the driverless-capable vehicle.

The bill specifies requirements of the ADS and conventional human drivers:

- The bill permits the operation of an ADS-equipped vehicle capable of performing the entire dynamic driving task on public highways when a conventional human driver is present and expected to respond to a request to intervene.
 - The bill requires the conventional human driver to possess a valid driver's license for the type of vehicle used and to be subject to requirements for insurance, self-insurance, or other financial security under the Kansas Automobile Injury Reparations Act.
 - The bill requires the conventional human driver to operate the ADS-equipped vehicle according to the manufacturer's requirements and to regain manual control when prompted by the automated driving system.
- The bill requires the ADS, while engaged, to be designed to operate in compliance with applicable traffic and motor vehicle safety laws and regulations.

The bill states Kansas motor vehicle laws shall not be construed to require a conventional human driver to operate a driverless-capable vehicle being operated by an ADS, and the ADS, while engaged, shall be deemed to fulfill any physical acts required of a conventional human driver.

The bill states the sections added by the bill shall not be construed to modify the responsibilities of a conventional human driver when the ADS is not engaged.

Financial Security (Section 3)

The bill requires the owner of an ADS-equipped vehicle to obtain insurance, self-insurance, or other financial security before an ADS-equipped vehicle is allowed to operate on public highways in Kansas. The bill requires proof of financial security to be carried in the vehicle, pursuant to the Kansas Automobile Injury Reparations Act.

Duties if a Crash Occurs (Section 4)

Provisions defining responsibilities of a driver in the event of a crash are not applicable to a driverless-capable vehicle operating without a conventional human driver if the vehicle remains at or near the scene of the crash until law enforcement arrives or vehicle registration and insurance information is provided to the parties affected by the crash and:

- The vehicle owner or person acting on the owner's behalf promptly contacts the applicable law enforcement agency to report the crash; or
- A vehicle so capable alerts a law enforcement agency or emergency services to the crash.

On-demand Driverless-capable Vehicle Networks (Section 5)

The bill authorizes operation of an on-demand driverless-capable vehicle network, defined as a transportation network company using driverless-capable vehicles for transporting persons or goods. Provisions of the Transportation Network Company Services Act that by their nature apply only to a conventional human driver do not apply.

The bill authorizes use of an on-demand driverless-capable vehicle network to facilitate transportation of persons or goods, including, but not limited to, transportation for hire and public transportation. It also authorizes an on-demand driverless-capable vehicle network to connect passengers either exclusively to driverless-capable vehicles or conventional human drivers who provide transportation services, pursuant to the Transportation Network Company Services Act, in vehicles that are not driverless-capable.

Authority for Regulation (Section 6)

The bill requires ADSs and ADS-equipped vehicles to be governed by the provisions of the bill and all applicable traffic and motor vehicle safety laws. The bill states violations of state and local traffic laws are enforceable as if the vehicle has a licensed human driver on board.

The bill states ADSs and ADS-equipped vehicles shall be regulated by the KHP. It authorizes the superintendent of the KHP to adopt rules and regulations to implement all new sections of the bill specifying requirements for ADSs and ADS-equipped vehicles.

The bill prohibits a political subdivision of the State from imposing additional standards or a tax specific to an ADS, ADS-equipped vehicle, or on-demand driverless-capable vehicle network.

Vehicle Registration (Section 7)

The bill requires a driverless-capable vehicle operated in Kansas to be registered and, if registered in Kansas, to be identified on the registration as a fully autonomous vehicle.

The bill requires a driverless-capable vehicle to be titled as required for conventional vehicles and, if titled in Kansas, to be identified on the title as a driverless-capable vehicle.

Commercial Driverless-capable Vehicles (Section 8)

The bill permits a driverless-capable vehicle that is a commercial motor vehicle under law regarding an annual commercial vehicle fee to operate pursuant to state laws covering the operation of commercial motor vehicles, with these exceptions:

- Any provision that by its nature applies only to a conventional human driver does not apply to a commercial motor vehicle operating with the ADS engaged; and
- The vehicle is prohibited from carrying hazardous materials, as defined under the Kansas Emergency Management Act, unless specified federal requirements do not apply and placarding pursuant to federal hazardous materials regulations is not required; these provisions will expire January 1, 2025.

Interpreting the Uniform Act Regulating Traffic on Highways (Section 9)

The bill directs that the Uniform Act Regulating Traffic on Highways, to the extent practicable, shall be interpreted and applied to a driverless-capable vehicle. The bill prohibits provisions of the Uniform Act from requiring any additional provisions including, but not limited to, operation by a conventional human driver seated in the vehicle.

Vehicle Equipment Laws (Section 10)

The bill excludes a driverless-capable vehicle designed to be operated exclusively by the ADS for all trips from motor vehicle equipment law or regulations that support vehicle operation by a conventional human driver, such as requirements for mirrors and windshield wipers, and are not relevant for an ADS.

Autonomous Vehicle Advisory Committee (Section 11)

The bill creates the Autonomous Vehicle Advisory Committee (AV Advisory Committee).

The bill requires the membership of the AV Advisory Committee to include legislators, other appointees, and organization representatives:

- Legislators:
 - Two senators appointed by the President of the Senate;
 - One senator appointed by the Minority Leader of the Senate;
 - Two members of the House appointed by the Speaker of the House; and
 - One member of the House appointed by the Minority Leader of the House;
- Agency officials or their designees:
 - Director of Vehicles;
 - Secretary of Transportation;
 - Superintendent of the KHP; and
 - Two members appointed by the Chairperson of the Kansas Corporation Commission;
- Appointees of the Governor:

- Two from labor organizations;
- One each from various industry-related groups:
 - Light duty motor vehicle manufacturers, original equipment manufacturers, original equipment manufacturers trade association, heavy-duty motor vehicle manufacturers, ADS developers, ADS developers trade association, ADS manufacturers, and on-demand transportation network companies;
- Municipality organization appointees:
 - One appointed by the League of Kansas Municipalities; and
 - One appointed by the Kansas Association of Counties; and
- Organization representatives appointed by:
 - ABATE;
 - Kansas State Troopers Association;
 - Kansas Sheriffs Association;
 - Foundation for Traffic Safety; and
 - Kansas Public Transit Association.

The bill directs the Speaker of the House to select an AV Advisory Committee member appointed from the House to serve as chairperson in even-numbered years and the President of the Senate to select a senator who is a member to be chairperson during odd-numbered years. The bill authorizes the Committee to meet at any time upon the call of the chairperson.

The bill requires the AV Advisory Committee to report activities and any recommendations regarding the use or regulation of autonomous vehicles in the state on or before July 1, 2023, and each subsequent July 1. The report will be submitted to the Governor, President of the Senate, and Speaker of the House.

The provisions establishing the AV Advisory Committee will sunset July 1, 2027.

Citations (Section 12)

The bill directs law enforcement officers to deliver a written traffic citation to the owner of the driverless-capable vehicle operating without a conventional human driver by sending the citation by certified mail to the address of the owner. The bill states the registered owner shall be responsible for all applicable traffic law violations, and the owner is considered to be the operator when the ADS is engaged.

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