

**PRELIMINARY SUMMARY OF LEGISLATION  
2022 KANSAS LEGISLATURE**

**KLRD**

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

This publication contains summaries of selected bills passed by the Legislature as of the end of the legislative day on March 23, 2022. Bills that have not yet been signed by the Governor and select resolutions are included.

A supplement containing summaries of major bills that were passed after that date will be distributed during the week of April 4, 2022. An additional supplement will be mailed after the wrap-up session in May.

*Highlights*, which summarizes key features of major legislation, will be prepared after the Legislature adjourns and will be mailed to legislators as soon as possible. *The Summary of Legislation*, which accounts for all bills passed by the 2022 Legislature, will be distributed at a later date.

These documents are available on the Kansas Legislative Research Department's website: [kslegresearch.org](http://kslegresearch.org).

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## **AGRICULTURE AND NATURAL RESOURCES**

### **Permit Renewal Fee Limitations for Solid Waste Disposal Areas and Processing Facilities; SB 417**

**SB 417** establishes new permit renewal fee limitations for solid waste disposal areas (disposal areas) and solid waste processing facilities (processing facilities) that are regulated by the federal standards for the disposal of coal combustion residuals (CCR).

[*Note:* CCR are generated when coal is burned in electric power plants and then disposed of in landfills or surface impoundments.]

The bill establishes the annual permit fee for disposal areas and processing facilities that are permitted by the Secretary of Health and Environment and subject to the federal requirements at a minimum of \$12,000 to a maximum of \$16,000. The new annual permit fee limitations apply until a new fee schedule is adopted by the Secretary through rules and regulations.

The bill requires that if a single permit encompasses more than one disposal area or processing facility, the total fee for the permit will be an amount equal to the sum of the fees for each disposal area and processing facility subject to federal standards encompassed in the permit.

The bill provides that if a disposal area or processing facility is operating under a federally issued CCR permit that includes all federal requirements, the disposal area or processing facility will not be subject to the fees established in the bill, but subject to the fee for a disposal area that does not accept CCR, which in continuing law is not less than \$1,000 and not more than \$4,000.

In addition, upon a determination by the Kansas Department of Health and Environment that a disposal area or processing facility meets all applicable federal post-closure care requirements and state regulations, the disposal area or processing facility will no longer be subject to permitting under provisions of the bill.

The first annual permit fee will be due on September 1, 2022.

### **Extending Sunsets for Fees and a Program Within the Kansas Department of Agriculture; HB 2560**

**HB 2560** extends the sunset for the Water Right Transition Assistance Program (WTAP) from July 1, 2022, to July 1, 2030, and extends the sunset for various existing fees of the Pesticide and Fertilizer Program within the Kansas Department of Agriculture (KDA) from July 1, 2023, to July 1, 2028.

[*Note:* WTAP is a KDA program that seeks to reduce the consumptive use of water from areas with declining supply, *i.e.*, the Ogallala/High Plains Aquifer in west-central Kansas.]

The bill extends the sunsets of the following fees:

- Penalty fee for not paying an inspection fee within a 30-day period of registering any commercial fertilizer;
- Application fee for a pesticide business license or renewal and additional fee for each uncertified individual employed by the applicant to apply pesticides;
- Application fee for government agency registration for pesticide;
- Registration fee for pest control technicians;
- Examination fee and re-examination fee for an applicant for a commercial applicator's certificate;
- Certificate fee for a certified private applicator;
- Application fee for a chemigation user's permit;
- Certification or certification renewal fee for a chemigation equipment operator;
- Permit fee to appropriate water and to appropriate water for storage;
- Application fee to change the place of use, the point of diversion, or the use made of the appropriated water; for a term permit to appropriate water; or for a term permit to appropriate water for storage;
- Field inspection fee;
- Application fee to request an extension of time to complete the diversion works or perfect the water right or to reinstate a water right or a permit to appropriate water that has been dismissed; and
- Permit fee for temporary water use and extensions.

## CONSTITUTIONAL AMENDMENTS

### **Proposed Constitutional Amendment—Legislative Oversight of Administrative Rules and Regulations; HCR 5014**

**HCR 5014**, if approved by voters, would amend the *Kansas Constitution* to create a new section in Article 1 concerning legislative oversight of administrative rules and regulations. The new section would provide that, whenever the Legislature by law has authorized any officer or agency within the Executive Branch to adopt rules and regulations that have the force and effect of law, the Legislature may provide by law for revocation or suspension of any such rules and regulation, or any portion thereof, by a majority vote of the members of each house.

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

The purpose of this amendment is to provide the legislature with oversight of state executive branch agencies and officials by providing the legislature authority to establish procedures to revoke or suspend rules and regulations.

A vote for this proposition would allow the legislature to establish procedures to revoke or suspend rules and regulations that are adopted by state executive branch agencies and officials that have the force and effect of law.

A vote against this proposition would allow state executive branch agencies and officials to continue adopting rules and regulations that have the force and effect of law without any opportunity for the legislature to directly revoke or suspend such rules and regulations.

The text of the resolution and the yea and nay votes of both the Kansas House of Representatives and the Kansas Senate will be published in the journals of both chambers.

The resolution requires the Secretary of State to publish the resolution and to submit the proposed constitutional amendment to voters at the 2022 General Election, unless a special election is called at a sooner date by concurrent resolution of the Legislature, in which case it will be submitted to voters at the special election.

## **CRIMES AND CRIMINAL MATTERS**

### **Kansas Racketeer Influenced and Corrupt Organization Act— Identity Theft or Identity Fraud; Sub. for SB 300**

**Sub. for SB 300** amends definitions in the Kansas Racketeer Influenced and Corrupt Organization Act (Kansas RICO Act), as follows.

The bill adds to the definition of “covered person” a person who has engaged in identity theft or identity fraud. The bill also adds identity theft or identity fraud to the list of crimes for which committing, attempting, or conspiring to commit or soliciting, coercing, or intimidating another person to commit a misdemeanor or felony violation constitutes “racketeering activity” under the Kansas RICO Act.

### **Theft or Criminal Damage to Remote Service Units; SB 483**

**SB 483** amends the crimes of theft and aggravated criminal damage to property to address theft or criminal damage to remote service units, as defined by the bill.

The term “remote service unit” has the same definition as in the Kansas Banking Code and specifically includes, but is not limited to, automated cash dispensing machines and automated teller machines (ATMs). The term is added to the definition of “value” contained in the theft statute.

[*Note:* “Value” includes the cost to restore the site of the theft of a remote service unit to its condition at the time immediately prior to the theft. Continuing law in the theft statute provides various penalties based on the value of the property taken with intent to permanently deprive the owner of the of the possession, use, or benefit of the owner’s property or services.]

The bill also amends the crime of aggravated criminal damage to include criminal damage to property where the damage exceeds \$5,000 and is committed with the intent to obtain currency upon a remote service unit, as defined above.

### **Crime of Conducting a Pyramid Promotional Scheme; HB 2231**

**HB 2231** excludes from the definition of the crime of conducting a pyramid promotional scheme plans and operations in which participants give consideration in return for the right to receive compensation based upon purchases, provided that the plan or operation does not cause “inventory loading.”

The bill defines “inventory loading” to mean the requirement or encouragement by a plan or operation to have an independent salesperson purchase inventory in an amount that exceeds the amount the salesperson can expect to resell or to use or consume in a reasonable time period. The bill provides additional definitions.

### **Crime Victims Compensation Board—Awards to Victims; HB 2574**

**HB 2574** amends law related to awards by the Crime Victims Compensation Board.



The bill raises the award limit for funeral and related expenses from \$5,000 to \$7,500 and raises the award limit for crime scene cleanup from \$1,000 to \$2,500.

The bill amends the definition of “crime scene cleanup” to state it may include replacement of materials that were removed because such materials were biohazardous or were damaged as part of evidence collection.

The bill restores to the list of victims who may be awarded compensation for mental health counseling certain victims removed from eligibility in 2021: victims who are required to testify in a sexually violent predator commitment, are notified that DNA testing of a sexual assault kit or other evidence has revealed a DNA profile of a suspected offender who victimized the victim, or are notified of the identification of a suspected offender who victimized the victim, if such claims are made within two years of the testimony or notification, respectively.

The bill removes a prohibition on compensation if economic loss is less than \$100.

## DISABILITY RIGHTS

### Achieving a Better Life Experience Savings Program; HB 2490

**HB 2490** amends law governing the Achieving a Better Life Experience (ABLE) savings program (program) to make the program compliant with the federal Internal Revenue Code and mandatory federal regulations. The program allows individuals with a disability and their families to save private funds without violating federal means-tested benefit requirements.

The bill allows a person authorized by the State Treasurer, through procedures established by the State Treasurer, to:

- Act on behalf of a designated beneficiary;
- Be a designated beneficiary; and
- Open a program account.

The bill amends the following definitions:

- “Account owner” is amended to add a person authorized by the State Treasurer through procedures established by the State Treasurer to those who may act on behalf of a designated beneficiary. [*Note*: Current law allows only a conservator or guardian to be appointed as an account owner for a designated beneficiary.];
- “Designated beneficiary” is amended to also mean a person authorized by the State Treasurer pursuant to KSA 75-653; and
- “Eligible individual” means the same as defined in the federal Internal Revenue Code.

The bill also amends law to make references to the federal Internal Revenue Code to specify, among other things, individuals with program accounts obtain federal and state income tax benefits of a qualified program account. The bill also removes the existing age requirement for a designated beneficiary to have a conservator, guardian, or person authorized by the State Treasurer act on the designated beneficiary’s behalf with regard to program accounts.

## ECONOMIC DEVELOPMENT

### **Attracting Powerful Economic Expansion Act, APEX Program; House Sub. for SB 347**

**House Sub. for SB 347** enacts the Attracting Powerful Economic Expansion Act (Act). The Act establishes new economic development incentives targeted at specific industries to firms that agree to invest at least \$1.0 billion within the State of Kansas and at their suppliers.

The bill became effective upon its publication in the February 10, 2022, *Kansas Register*.

The bill prohibits the Secretary from entering into any agreement with a qualified firm or supplier on and after May 1, 2024 (Section 15).

### ***Definitions (Section 1)***

The bill defines terms used in the Act.

#### ***Qualified Firm***

The bill defines a “qualified firm” as a for-profit business establishment subject to state income, sales, or property tax that is engaged in one or more of the following industries as determined by the Secretary of Commerce (Secretary):

- Advanced manufacturing;
- Aerospace;
- Distribution, logistics, and transportation;
- Food and agriculture; or
- Professional and technical services.

The bill provides exceptions to the definition by stating that a for-profit business establishment in any industry is eligible as a qualified firm if it is seeking benefits to relocate or establish its national corporate headquarters within the state. However, the bill excludes all business establishments engaged in the following activities from the definition of “qualified firm”:

- Mining;
- Swine Production;
- Ranching; or
- Gaming.

#### ***Qualified Supplier***

The bill defines a “qualified supplier” as a supplier of components, sub-assemblies, chemicals, or other process-related tangible goods that is located in Kansas and owned by one of the following entities:

- An individual, any partnership, association, limited liability corporation, or corporation domiciled in Kansas; or
- Any business that operates in Kansas for the purpose of supplying a qualified firm.

### *Qualified Business Facility*

The bill defines a “qualified business facility” as a building or complex of buildings satisfying the following requirements:

- The facility is for use by a qualified firm in operation of a revenue-producing enterprise; and
- If the facility was acquired or leased by the qualified firm or qualified supplier from another person or persons, that said facility was not being used in the operation of a revenue-producing enterprise that is the same or similar to the revenue-producing enterprise of the qualified firm.

The definition excludes any facilities or portions of facilities held by the qualified firm or qualified supplier and leased to another person or persons and not being utilized by the qualified firm or qualified supplier in the operation of a revenue-producing enterprise.

### *Qualified Business Facility Employee*

The bill defines a “qualified business facility employee” as an individual employed full time and scheduled to work for an average minimum of 30 hours per week, employed for at least three consecutive months on the last day of the period covered by a Kansas Department of Labor quarterly wage report and unemployment tax return.

### *Qualified Business Facility Investment or Qualified Investment*

The bill defines a “qualified business facility investment” or “qualified investment” as the total value of the real and tangible personal property of the qualified firm or qualified supplier during a taxable year, excluding inventory or property held for sale to customers in the ordinary course of business.

The value of the property is defined to be the property’s original cost if the property is owned by the qualified firm or qualified supplier or eight times the net annual rental rate if the property is leased by the qualified firm less any rental rate the qualified firm or qualified supplier receives from subrentals.

### *Other Definitions*

The bill defines various other terms, including “commitment to invest,” “facility,” “headquarters,” “new employee,” “total payroll cost,” and “training and education eligible expense.”

## ***Attracting Powerful Economic Expansion Program (Section 2)***

The bill establishes the Attracting Powerful Economic Expansion (APEX) Program under the purview of the Secretary for the purpose of attracting large capital investments in new facilities and operations by businesses engaged in specified industries, establishing new national headquarters in Kansas, and encouraging the development of Kansas-based supply chains.

The APEX Program provides tax incentives to qualified firms who agree to invest at least \$1 billion in Kansas within a five-year period and to no more than five of the qualified firm's qualified suppliers.

The Secretary is permitted to enter into one agreement each in calendar years 2022 and 2023. Prior to offering any agreement for incentives under the Act, the Secretary is required to obtain approval from the State Finance Council.

The bill authorizes the Secretary of Commerce or the Secretary of Revenue to adopt rules and regulations for implementation of the Act.

## ***Qualified Firms (Section 2)***

### ***Requirements***

To receive incentives under the APEX Program, the bill requires a business to meet the definition of a qualified firm and fulfill the following requirements:

- Submit an application to the Secretary, in the form of and with the information required by the Secretary;
- If requested by the Secretary, submit a certificate of intent to invest which, if required by the Secretary, must contain a date investment would commence;
- Commit to a qualified business investment of at least \$1 billion in a qualified business facility to be completed within five years;
- Complete the project and commence commercial operations within five years;
- Enter into a binding agreement with the Secretary that includes the commitments required by the bill;
- Obtain and submit a bond to the Secretary in the amount required to cover primary construction of the building or buildings for the qualified business facility if the qualifying firm or qualifying business facility does not meet the minimum investment grade rating determined by the Secretary; and
- Commit to repayment of any benefit or benefits received connected to or associated with a term or condition of the agreement that has been breached, as determined by the Secretary, and the forfeiture of any such earned benefits and the suspension or cessation of future benefits for as long as the breach is not corrected. The bill requires the Secretary to report any material breach to the State Finance Council within 14 days of becoming aware of the breach.

### *Incentives*

The qualified firm meeting the above requirements will be eligible for the following incentives, as approved by the Secretary:

- Investment tax credits;
- Reimbursement of a percentage of total payroll;
- Reimbursement of a percentage of eligible employee training and education expenses;
- Reimbursement of a percentage of relocation incentives and expenses provided by a qualified firm to incentivize employees to relocate to Kansas; and
- Sales tax exemption for construction costs of the qualified business facilities.

The bill states that a qualified firm's confidential financial information, trade secrets, or other information that would put the firm at a disadvantage in the marketplace, or would significantly interfere with the purposes of the Act as determined by the Secretary, shall not be subject to disclosure but shall be made available upon request to the Legislative Division of Post Audit. These exclusions from the provisions of the Kansas Open Records Act will expire on July 1, 2027, unless reviewed and re-enacted by the Legislature.

In addition to any other repayment provisions under the Act, the bill requires any qualified firm that receives incentives under the Act to repay a percentage of benefits received under the Act if it relocates outside of the state in the 11th through 15th years following the year the qualified firm entered into the agreement with the Secretary. The percentage repayments will be:

- 100 percent if the relocation occurs in the 11th year;
- 80 percent if the relocation occurs in the 12th year;
- 60 percent if the relocation occurs in the 13th year;
- 40 percent if the relocation occurs in the 14th year; and
- 20 percent if the relocation occurs in the 15th year.

The repayment requirement are waived if the qualified firm sells the qualified business facility to another business and the operations of the qualified business facility are substantially continued in Kansas.

### ***Qualified Suppliers Eligibility and Incentives (Section 2)***

#### *Requirements*

The bill allows a qualified firm to select not more than five eligible, qualified suppliers that meet the following requirements to be eligible to receive incentives for up to five successive years under the Act:

- Submit an application to the Secretary in the form and manner designated by the Secretary, and including all information requested by the Secretary;
- Submit a certificate of intent to invest in a qualified business facility which includes when investment will begin;

- Make more than \$10 million of sales to the qualified firm within the taxable year for which benefits are being sought, unless this requirement is waived by the Secretary due to “exceptional circumstances”; and
- Provide information to the Secretary such as, but not limited to:
  - Evidence establishing sales of more than \$10 million to the qualified firm;
  - Date when operations at the qualified business facility began; and
  - Sales to the qualified business facility by the qualified supplier.

The selection of qualified suppliers cannot change unless a qualified supplier breaches the terms of an agreement pursuant to the Act and is disqualified by the Secretary. If the Secretary approves the application, the bill requires the qualified supplier to enter into a binding agreement with the Secretary establishing the terms and conditions of the agreement. The agreement is required to, at a minimum, contain the requirements and conditions of the Act and require the qualified supplier to provide the Secretary with evidence showing the amount of sales made to the qualified firm each year. The bill requires the agreement be entered into before any benefits under the Act are provided to the qualified supplier.

No benefits will be provided to the qualified supplier until the qualified firm has commenced operation at the qualified business facility. Should the qualified business facility fail to commence operations, all benefits to the qualified supplier are forfeit.

### *Incentives*

Qualified suppliers are eligible for the following incentives:

- Investment tax credit;
- Partial retention of employee withholding tax;
- Reimbursement of a percentage of eligible employee training and education expenses;
- Partial real property tax exemption for qualified business facilities; and
- Sales tax exemption for construction materials used in the qualified business facility.

The bill requires qualified suppliers to meet the individual requirements of each incentive in order to receive benefits. Furthermore, the bill states that qualified suppliers that meet the requirements of the investment tax credit are required to commit to repay all benefits received under the Act should the qualified supplier fail to meet the requirements of the Act, rules and regulations, or terms and conditions of the agreement entered into with the Secretary.

### ***Conditions on Qualified Firms and Qualified Suppliers (Section 2)***

The bill disqualifies a qualified firm or qualified supplier approved by the Secretary of Commerce from participating in the following programs:

- Promoting Employment Across Kansas (PEAK) Program;
- High Performance Incentive Program (HPIP);
- Kansas Industrial Training (KIT) Program;

- Kansas Industrial Retraining (KIR) Program; or
- Any other economic development program or fund administered by the Secretary of Commerce.

The qualified firm or supplier is also required to cooperate with any audit undertaken by the Secretary of Revenue and to provide to the Secretary of Commerce the following information:

- Information required for publication in the Economic Development Incentive Program Database as prescribed by law;
- Information reasonably required for the Secretary's report on the APEX Program to the Governor and specified committees of the Legislature;
- Information required by the Secretary of Commerce for the Secretary's annual review or by the Secretary of Revenue that pertain to the qualified firm's eligibility for benefits; and
- Reasonable access by the Secretary or Department of Commerce staff to the qualified business facility during business hours.

The bill requires the Secretary of Commerce to conduct an annual review of the activities of qualified firms and qualified suppliers to ensure compliance with the provisions of the Act, rules and regulations adopted by the Secretary, and the agreement entered into by the qualified business. Upon review, the bill directs the Secretary of Commerce to certify to the Secretary of Revenue that the qualified firm is eligible for benefits.

The Secretary of Revenue is tasked, in consultation with the Secretary of Commerce, to develop a form to be completed annually by qualified firms and qualified suppliers that receive benefits.

### ***Investment Tax Credit (Section 3)***

The bill authorizes eligibility for both qualified firms and qualified suppliers to receive investment tax credits.

#### ***Incentive***

Beginning in tax year 2022, a qualified firm or supplier that makes a qualified business investment in a qualified business facility and meets all requirements in the Act will be allowed a credit for such investment against that entity's income tax, premium tax, privilege fees, or privilege tax.

The bill specifies the credit will be earned each taxable year based upon the amount of the qualified investment made within the taxable year. For qualified firms, the credit can be up to 15.0 percent of the qualified investment within the taxable year, as determined by the Secretary of Commerce, and will be divided into ten equal installments to be claimed in ten successive tax years. The bill permits the State Finance Council to approve installments or portions of installments to be in advance of the ten successive years. Such approval requires an affirmative vote of the Governor and a majority of the legislative members of the State Finance Council. For qualified suppliers, the credits are 5.0 percent for the first \$50 million in qualified investment and



an additional 1.0 percent for each additional \$10 million in qualified investment, up to a maximum of \$100 million.

The bill requires the Secretary of Commerce to establish the percentage of the tax credit that may be refundable to the qualified firm or qualified supplier in an agreement entered into between the Secretary and the qualified firm or qualified supplier. The base percentage that is refundable is 50 percent. The Secretary is permitted to provide additional percentage to be refundable up to 100 percent, depending on the qualified firm meeting specified goals established in the agreement between the Secretary and the qualified firm. The installment portion of the tax credit that is not refunded may be carried forward up to ten years.

The bill requires the Secretary of Commerce, in determining the percentage of the tax credit earned, to consider the following factors:

- Extent of prospective new employment;
- Quality of new jobs and wage or salary levels;
- Total amount of investment;
- Potential for development of the industry within the state; and
- Potential for ancillary industry development and indirect economic development.

The bill also requires the Secretary to base the determination of the percentage of the tax credit earned on the qualified firm or qualified supplier meeting goals established in the agreement with the Secretary, including targets for the:

- Creation of new jobs, including jobs for suppliers;
- Benefit to the local, regional, or state economy, including the development of suppliers in Kansas;
- Amount of capital investment;
- Benefit to the development of the qualified firm's industry in Kansas;
- Employment, retention, and attraction of employees to remain residents of or relocate to Kansas; or
- Other measures consistent with the purposes of the Act.

### *Conditions*

The bill requires the Secretary of Commerce to certify the eligibility of the qualified firm or supplier in each taxable year prior to the Secretary of Revenue issuing tax credits to the qualified firm.

Should the tax credits of the qualified firm or supplier be disallowed in whole or in part by the Secretary of Commerce or the Secretary of Revenue, the bill states the qualified firm is liable for repayment to the State of the amount disallowed.

In order to claim the credits, the bill requires the qualified firm or supplier to provide the following information pursuant to KSA 79-32,243 as part of their tax return claiming the credits:

- Actual jobs created as a direct result of the expenditures on which such credit claims are based;

- Additional payroll generated as a direct result of the expenditures on which such credit claim is based;
- Actual jobs retained as a direct result of the expenditures on which such credit claim is based;
- Additional revenue generated as a direct result of the expenditures on which such credit claim is based;
- Additional sales generated as a direct result of the expenditures on which such credit claim is based;
- Total employment and payroll at the end of the tax year in which the credits are claimed; and
- Further information as required by the Secretary of Revenue.

The bill prohibits the denial of investment tax credits based solely on the information provided.

#### ***Partial Retention of Payroll Withholding Tax (Section 4)***

The bill specifies only qualified suppliers are eligible to receive a partial retention of employee payroll withholding taxes.

#### ***Incentive***

The bill, starting in taxable year 2022, allows a qualified supplier who meets the requirements of the Act to be eligible to retain up to 65.0 percent of its Kansas payroll withholding taxes for up to ten successive years. The bill authorizes the Secretary of Commerce to determine the percentage of Kansas payroll withholding taxes retained and duration of the benefit.

The bill requires the Secretary to consider, at a minimum, the following factors when determining the amount of benefits for a qualified supplier:

- Extent of prospective new employment;
- Quality of new jobs and wage or salary levels;
- Total amount of investment;
- Potential for development of the industry within the state; and
- Other measures or goals of the Secretary consistent with the purposes of the Act.

The bill prohibits any payroll tax retention by a qualified supplier until after the qualified firm that selected the qualified supplier has commenced commercial operations as established in the Act.

#### ***Third-party Employer Eligibility***

The bill authorizes a qualified supplier to utilize or contract with a third-party employer and still receive payroll tax retention benefits. The bill requires the third-party employer to meet the following criteria:

- Serve as the legal employer of the qualified supplier's employees providing service to the qualified supplier;
- Perform such services in Kansas; and
- Be subject to the Kansas Withholding and Declaration of Estimated Tax Act.

### *Agreement*

To receive the payroll tax retention benefit, the qualified supplier is required to submit an application to the Secretary of Commerce and provide all information requested by the Secretary. If the Secretary approves the request, an agreement is established between the Secretary and the qualified supplier to include, but not be limited to, the following elements:

- Terms and conditions of the Secretary;
- Percentage of payroll withholding taxes to be retained each year; and
- Any requirements or performance targets as determined by the Secretary.

Should the qualified supplier breach the agreement or the conditions of the Act, the bill requires the qualified supplier to pay the State an amount equal to all Kansas payroll withholding taxes retained by the qualified supplier or remitted to the qualified supplier by a third-party.

### *Certification*

The bill requires the Secretary of Commerce to annually certify the following information to the Secretary of Revenue:

- That the qualified supplier is eligible to receive benefits under the Act and the terms of agreement;
- Number of employees;
- Amount of gross wages being paid to each employee; and
- Percentage of payroll withholding taxes to be retained.

The bill requires the qualified supplier to submit the amount of Kansas payroll withholding tax being retained by the qualified supplier to the Kansas Department of Revenue.

### ***Reimbursement of Total Payroll (Section 5)***

Under the bill, only qualified firms are eligible to receive partial reimbursement for total payroll costs.

### *Incentive*

Starting July 1, 2022, the bill allows a qualified firm to receive partial reimbursement of total payroll costs paid to the employees of the qualified business facility during a taxable year, as approved by the Secretary of Commerce.

The bill limits the amount of the payroll reimbursement for each taxable year at 7.5 percent of the total payroll cost of the qualified firm in the taxable year for up to 10 successive years. The percentage of reimbursement and number of successive years are determined by the Secretary. The Secretary is permitted to increase the percent of the total payroll cost to be reimbursed up to 10.0 percent with approval of the State Finance Council, which requires an affirmative vote of the Governor and the majority of the legislative members of the State Finance Council.

### *Eligibility*

The qualified firm becomes eligible for such reimbursements when the Secretary determines the qualified firm has met the following requirements:

- Enters into an agreement with the Secretary; and
- Commences construction of the qualified business facility; or
- Commences commercial operations at the qualified business facility.

### *Requirements*

The bill requires the qualified firm, to be eligible, to meet the eligibility requirements of the Act and enter into an agreement with the Secretary that details the percentage of reimbursement, number of successive years, and such terms and conditions determined by the Secretary. The bill prohibits a claim for reimbursement for payroll costs from being paid unless the following requirements are met:

- The qualified firm has met all requirements in the Act;
- The Secretary has certified that the qualified firm has met all requirements for the taxable year being claimed; and
- The qualified firm has filed a claim with the Secretary in the form and manner required by the Secretary including evidence showing the amount of total payroll costs for the year being claimed.

### *Payment*

The bill requires all payroll reimbursements to be paid from the Attracting Powerful Economic Expansion Payroll Incentive Fund, which is subject to appropriations. If the qualified firm breaches the terms and conditions of the agreement for incentives, the reimbursements of total payroll costs must be repaid to the State.

### ***Attracting Powerful Economic Expansion Payroll Incentive Fund (Section 6)***

The bill establishes the Attracting Powerful Economic Expansion Payroll Incentive Fund within the state treasury. The fund is administered by the Secretary of Commerce and used only for partial reimbursement of qualified firms for total payroll costs. Expenditures from the fund are subject to appropriations.

## ***Reimbursement of Eligible Employee Training and Education Expenses (Section 7)***

Both qualified firms and qualified suppliers are eligible to receive reimbursements for eligible employee training and education expenses.

### ***Incentive***

Starting July 1, 2022, the bill authorizes a qualified firm or qualified supplier that meets the requirements of the Act and enters into an agreement with the Secretary of Commerce to be eligible for a reimbursement of up to 50.0 percent of training and education eligible expenses, of which travel expenses have a maximum allowance of \$60 per day for meals and \$150 per night for lodging, for the purpose of educating and training new employees. Each qualified firm is eligible for up to \$5 million annually for up to five successive years, as determined by the Secretary. Each qualified supplier is eligible to receive up to \$250,000 annually.

### ***Qualified Firms Eligibility***

Under the bill, qualified firms are eligible for reimbursement commencing with the year in which the firm enters into an agreement with the Secretary, commences construction of its qualified business facility, or commences commercial operation of its qualified business facility.

### ***Qualified Supplier Eligibility***

Under the bill, qualified suppliers are eligible beginning in the year in which the qualified firm that selected the qualified supplier for eligibility commences commercial operation at the qualified business facility. Only training and education expenses for new employees employed in Kansas are eligible for reimbursement.

### ***Requirements***

The bill requires qualified firms and suppliers to annually submit an application to the Secretary, in the manner of and with information requested by the Secretary, in order to be certified as eligible to receive the reimbursement. The bill prohibits reimbursements from being issued unless the qualified firm or supplier was certified by the Secretary as meeting all the requirements of the Act.

The percentage of reimbursement and number of successive years will be determined by the Secretary. When making the determination, the bill requires the Secretary to take into account the following factors:

- Extent of prospective new employment;
- Quality of new jobs and wage or salary levels;
- Total amount of investment;
- Potential for development of the industry within the state;
- Potential for ancillary industry development and indirect economic development;
- and
- Other measures or goals of the Secretary consistent with the purposes of the Act.

### *Payment*

All reimbursements will be made from the Attracting Powerful Economic Expansion New Employee Training and Education Fund, subject to appropriation. If a qualified firm or qualified supplier breaches the terms and conditions of the agreements for incentives, reimbursements to such firm or supplier must be repaid to the state.

### ***Attracting Powerful Economic Expansion New Employee Training and Education Fund (Section 8)***

The bill establishes the Attracting Powerful Economic Expansion New Employee Training and Education Fund within the state treasury. The fund is administered by the Secretary of Commerce for the purpose of reimbursing qualified firms and suppliers for eligible education and training expenses under the Act. The fund is subject to appropriation.

### ***Sales Tax Exemption (Section 9)***

Both qualified firms and qualified suppliers are eligible to receive sales tax exemptions under the Act.

### *Incentive*

Under the bill, on and after July 1, 2022, the qualified firm or qualified supplier will receive a sales tax exemption for all tangible personal property or services purchased by the qualified firm or supplier for the purpose of constructing, reconstructing, enlarging, or remodeling a qualified business facility.

### *Eligibility*

Qualified firms become eligible for the exemption on the day they commence construction of the qualified business facility unless an earlier date is provided in the agreement with the Secretary.

Qualified suppliers will be eligible upon selection by the qualified firm pursuant to the Act.

Both qualified firms and qualified suppliers must be approved by, and enter into an agreement with, the Secretary. The exemption is valid until either the completion of construction of the qualified business facility or the date specified in the agreement with the Secretary.

### *Conditions*

The bill requires the Secretary of Commerce to provide notice to the Secretary of Revenue regarding any approval of sales tax exemptions. The bill prohibits the Secretary of Revenue from issuing exemptions to a qualified firm or supplier until certification from the Secretary of Commerce is received.

The bill requires the Secretary of Revenue to revoke all sales tax exemptions upon notification from the Secretary of Commerce that a qualified firm or supplier has been

disapproved by the Secretary of Commerce. If the qualified firm or supplier breaches the terms and conditions of the agreement for incentives, the bill requires the amount of sales tax exempted to be repaid to the state.

### ***Reporting Requirements (Section 10)***

The bill requires the Secretary to transmit a report based upon information received from qualified firms and qualified suppliers receiving benefits on or before January 31 of each year to the following entities:

- The Office of the Governor;
- The Senate Committee on Assessment and Taxation;
- The Senate Committee on Commerce;
- The House Committee on Taxation;
- The House Committee on Commerce, Labor and Economic Development; and
- Any successor committees to those listed in the Act.

The report will be based on information received by the Secretary from qualified firms and suppliers and include, but not be limited to, the following information:

- Names of qualified firms or qualified suppliers;
- Types of qualified firms or qualified suppliers utilizing the Act;
- Location of such qualified firms and suppliers and their locations, description, and economic impact of business operations in Kansas;
- Cumulative number of new employees hired and the number of new employees hired in that calendar year;
- Wages paid to new employees;
- Annual and cumulative amount of investments made;
- Annual amount of each benefit provided under the Act;
- Estimated net state fiscal impact, including direct and indirect new state taxes derived from new employees;
- An estimate of the multiplier effect on the Kansas economy;
- Any material defaults by a qualified firm or qualified supplier of the terms of any agreement for incentives under the Act;
- The percentage of the business of a qualified supplier that is with the qualified firm that designated the qualified supplier; and
- The number of employees of the qualified firm and qualified supplier residing in Kansas and every other state.

The bill also requires the Secretary to report the number of projects that may qualify for incentives under the Act to the chairpersons of the Senate Committee on Commerce and the House Committee on Commerce, Labor and Economic Development on a quarterly basis.

### ***Corporate Tax Rate Adjustment (Section 11)***

Beginning in fiscal year 2022, the bill requires the Secretary of Commerce to certify to the Secretary of Revenue, Director of the Budget, and Director of Legislative Research of the entering into an initial agreement for incentives under the Act by a qualified firm and commencement of construction on a qualified business facility.

When certification is received, the bill requires the Secretary of Revenue to reduce the corporate tax rate for the next tax year by 0.5 percent, until reduced to 0.0 percent.

The Secretary of Revenue is required to report any reduction in corporate income tax rates to the following individuals:

- Chairperson of the Senate Committee on Assessment and Taxation;
- Chairperson of the Senate Committee on Commerce;
- Chairperson of the House Committee on Commerce, Labor and Economic Development;
- Chairperson of the House Committee on Taxation; and
- The Governor.

The bill requires notice of the rate reduction to be published in the *Kansas Register* prior to September 15 of the calendar year before the tax year in which the reduction takes effect.

### ***Relocation Costs and Incentives (Section 12)***

Under the bill, qualified firms are eligible for annual reimbursement of up to 50.0 percent of relocation incentives and expenses provided to incentivize employees who are not Kansas residents to relocate their primary residence to Kansas and become Kansas residents. Reimbursements are limited to \$1 million per year per qualified firm and are permitted for up to 10 successive years. Reimbursements will be subject to appropriations and will be paid from the Attracting Powerful Economic Expansion Kansas Residency Incentive Fund.

In order to seek reimbursement, a qualified firm must submit to the Secretary a Kansas residency incentive plan describing the expected costs of each component of the plan. The reimbursement percentage is subject to the qualified firm meeting goals for incentivizing employees to become Kansas residents.

If the qualified firm breaches any of the terms or conditions of the agreement under the Act, the qualified firm will be required to remit any reimbursements to the state.

### ***Attracting Powerful Economic Expansion Kansas Residency Incentive Fund (Section 13)***

The bill establishes the Attracting Powerful Economic Expansion Kansas Residency Incentive Fund within the state treasury. The fund is administered by the Secretary of Commerce for the purpose of reimbursing qualified firms for expenses incurred in a Kansas residency incentive plan for employees under the Act. The fund is subject to appropriations.



***Tax Amendments (Sections 14 and 15)***

The bill amends law regarding corporate income tax by stating that the rate is subject to adjustment based upon provisions within the Act.

The bill amends law to exempt from the collection of sales tax all sales of tangible personal property or services purchased by a qualified firm or qualified supplier for the purpose of constructing, reconstructing, enlarging, or remodeling a qualified business facility. The exemption requires the qualified firm or qualified supplier to obtain a tax exemption certificate to provide to all suppliers in order to receive said exemption.

The bill requires the contractor, upon completion of the project, to provide the qualified firm or supplier with a sworn statement that all purchases made were entitled to sales tax exemption. The bill requires the contractor to retain copies of all invoices for five years and be subject to audit by the Director of Taxation.

Any contractor, agent, employee, or subcontractor who makes a purchase under the certification of exemption for purposes other than the construction of the qualified business facility will be deemed guilty of a misdemeanor and subject to penalties.

## FINANCIAL INSTITUTIONS

### **Conversion to Full Fiduciary Financial Institution Charter; SB 337**

**SB 337** amends provisions pertaining to the pilot program established within the Technology-enabled Fiduciary Financial Institutions (TEFFI) Act to clarify and retroactively codify the intended date for the issuance of a full charter to the Beneficient Company. The bill specifies that, on December 31, 2021, the conditional charter granted under this pilot program shall be converted to a full fiduciary financial institution charter.

The bill became effective upon its publication in the March 10, 2022, *Kansas Register*.

### **Kansas Uniform Trust Code Amendments—Nonjudicial Settlement Agreement; Non-Economic and Resident Trusts; Sub. for SB 400**

**Sub. for SB 400** amends the Kansas Uniform Trust Code to add to the list of trust matters that may be resolved by a nonjudicial settlement agreement, to increase the limit on the total value of a trust before a trustee may seek to terminate such trust as being non-economic, and to amend the definition of a “resident trust.”

#### ***Resolution by Nonjudicial Settlement Agreement***

The bill adds the following matters to those that may be resolved by a nonjudicial settlement agreement:

- The interpretation or construction of the terms of the trust;
- The direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power; and
- The governing law of the trust.

#### ***Non-economic Trust***

The bill increases from \$100,000 to \$250,000 the total value of a trust before a trustee may seek termination of the trust based on its value being insufficient to justify the cost of administration.

#### ***Definition of “Resident Trust”***

The bill amends “resident trust” to mean a trust that is administered in this state and that was created by or consisting of property owned by a person domiciled in this state on the date the trust or portion of the trust became irrevocable.

## Remote Locations for Mortgage Businesses; HB 2568

**HB 2568** updates the Kansas Mortgage Business Act (KMBA) to allow certain mortgage business to be conducted remotely and make changes to definitions and branch licensure and other registration requirements for mortgage companies.

### ***Definitions***

The bill removes the definitions of “application” and “*bona fide* office,” adds a definition for “mortgage loan application,” and amends the definitions of “branch office,” “loan processor or underwriter,” “mortgage company,” and “principal place of business.”

The bill defines “remote location” to mean a location other than the principal place of business or a branch office where a licensed mortgage company’s employee or independent contractor is authorized by such company to engage in mortgage business. A remote location is not to be considered a branch office.

### ***Conducting Mortgage Business at Remote Locations***

The bill allows mortgage business to be conducted at a remote location if the following conditions are met:

- The licensed mortgage company’s employees or independent contractors do not meet with the public at a personal residence;
- No physical business records are maintained at the remote location;
- The licensed mortgage company has written policies and procedures for working at a remote location, and the company supervises and enforces the policies and procedures;
- The licensed mortgage company maintains the computer system and customer information in accordance with the company’s information technology security plan and all state and federal laws;
- Any device used to engage in mortgage business has appropriate security, encryption, and device management controls to ensure the security and confidentiality of customer information as required by rules and regulations adopted by the State Bank Commissioner (Commissioner);
- The licensed mortgage company’s employees or independent contractors take reasonable precautions to protect confidential information in accordance with state and federal laws; and
- The licensed mortgage company annually reviews and certifies that the employees or independent contractors engaged in mortgage business at remote locations meet the requirements of this section of the bill. Upon request, a

licensee is required to provide written documentation of the licensee's review to the Commissioner.

### ***License and Registration Requirements***

The bill replaces the current requirements for licenses and renewal applications. The bill sets the expiration date for licenses and registration on December 31 of each year, and a license or registration will be renewed by filing a complete renewal application and non-refundable renewal fee with the Commissioner by December 1 of each year.

The bill authorizes the Commissioner to assess a late fee on any renewal application received after December 1 of each year and on any incomplete renewal application as of December 1 of each year. The Commissioner may designate late fees for consumer education to be spent for that purpose as directed by the Commissioner.

The bill allows for an expired license or registration to be reinstated through the last day of February of each year by filing a reinstatement application and paying the application and late fees. Upon reinstatement, the license and registration is considered in full force and effect.

### ***Surety Bond Requirements***

The bill increases the surety bond amount from not less than \$50,000 to not less than \$100,000 that each applicant or licensee is required to file with the Commissioner. In addition, the bill removes duplicative language on the surety bond amount and removes a requirement that each applicant or licensee submit a written statement by an independent certified public accountant on a financial statement. The bill also rewords the requirements of applicants or licensees to submit evidence of solvency and require the applicants and licensees to maintain a positive net worth.

## HEALTH

### Occupational Therapy; SB 440

**SB 440** authorizes occupational therapists to provide limited services to patients without referral from a health care provider and amends the Occupational Therapy Practice Act (Act).

#### *Occupational Therapists and Referrals*

The bill allows occupational therapists to evaluate and initiate occupational therapy treatment on a patient without referral from a health care practitioner.

The bill creates conditions under which an occupational therapist is required to obtain a referral from an appropriate health care practitioner. An occupational therapist who is treating a patient without a referral from a health care practitioner is required to obtain a referral from an appropriate health care practitioner prior to continuing treatment if the patient:

- Is not progressing toward documented treatment goals as demonstrated by objective, measurable, or functional improvement after 10 patient visits or in a period of 30 calendar days from the initial treatment visits following the initial evaluation visit; or
- Within one year from the initial treatment visit following the initial evaluation visit, returns to the occupational therapist seeking treatment for the same conditions or injury.

The bill allows occupational therapists to provide services without a referral to:

- Employees solely for the purpose of education and instruction related to workplace injury prevention;
- The public for the purpose of health promotion, education, and functional independence in activities of daily living; or
- Special education students who need occupational therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).

The bill does not prevent a hospital or ambulatory surgical center from requiring a physician to order or make a referral for occupational therapy services for a patient currently being treated in such a facility.

The bill requires an occupational therapist to provide written notice to a self-referring patient, prior to commencing treatment, which states that an occupational therapy diagnosis is not a medical diagnosis by a physician.

The bill clarifies that occupational therapists may perform wound care management services only after approval by a person licensed to practice medicine and surgery.

The bill defines “healthcare practitioner” to mean:

- A person licensed by the State Board of Healing Arts (BOHA) to practice medicine and surgery, osteopathic medicine and surgery, or chiropractic;
- A “mid-level practitioner” as already defined in statute; or
- A licensed dentist or licensed optometrist in appropriately related cases.

### ***Liability Insurance***

The bill requires licensed occupational therapists actively practicing in the state to maintain professional liability insurance coverage as a condition of rendering professional occupational therapy services. The bill requires BOHA to determine the minimum level of coverage for such insurance through rules and regulations.

### ***Amendments to Occupational Therapy Practice Act***

The bill removes sections of the Act that pertain to referral or supervision from a licensed health care practitioner and adds language specifying that the “practice of occupational therapy” does not include the practice of any branch of the healing arts or making a medical diagnosis.

### **COVID-19—Adult Care Homes; Health Care Professionals; HB 2477**

**HB 2477** creates and amends law to temporarily adjust requirements related to adult care homes and health care professionals in response to the COVID-19 pandemic. The bill took effect upon publication in the *Kansas Register* on January 21, 2022, and all provisions of the bill will expire on January 20, 2023.

### **Adult Care Homes**

The bill creates law requiring the Kansas Department for Aging and Disability Services (KDADS) to extend through the expiration of the bill’s provisions any renewal deadline for any occupational or professional license, certificate, or registration issued by KDADS.

KDADS is authorized to issue a temporary license, certification, or registration to any person who was previously licensed, certified, or registered by KDADS if the person was in good standing prior to the lapse of the license, certification, or registration, subject to conditions specified by the bill, and the license, certification, or registration was issued on or after January 6, 2017. KDADS is required to waive any late fee associated with any license, certificate, or registration extended or issued under the above provisions.

KDADS is required to extend through the expiration of the bill’s provisions any deadline for continuing education requirements.

KDADS is allowed to issue a temporary aide authorization for any person who receives minimum training (as specified by the bill and KDADS) within a nursing facility.

KDADS is allowed to issue a temporary authorization for a person not previously licensed, certified, or registered by the state or any other state, and such persons may serve only individuals requiring minimal supervision or assistance with daily living activities. Nursing facilities are required to ensure that any person with a temporary authorization is competent to perform and execute certain duties specified by the bill.

The bill allows the Secretary for Aging and Disability Services to issue a provisional license to an adult care home that submits a checklist and a detailed plan for isolation and cohorting of residents in response to the COVID-19 pandemic. In approving such checklist and plan, the Secretary is allowed to temporarily suspend standards, requirements, and rules and regulations related to the physical environment, a change in bed capacity, or a change in bed classification for such adult care home. The provisional license may issued without approval by the State Fire Marshal and will remain valid through the expiration of the bill's provisions. Such provisional licenses remain subject to all requirements applicable to provisional licenses other than for reasons related to the isolation and cohorting of residents in response to the COVID-19 pandemic.

The bill defines “adult care home” and “Kansas Department for Aging and Disability Services” for purposes of the new section.

### **Health Care Professionals**

The bill renews a statute in the Kansas Intrastate Emergency Mutual Aid Act that allows physician assistants, advanced practice registered nurses, licensed practical nurses, nurse anesthetists, registered professional nurses, and licensed pharmacists to provide certain additional services in response to the COVID-19 pandemic; allows a registered professional nurse or licensed professional nurse whose license is exempt or inactive or has lapsed within the past five years to provide health care services; permits designated health care facilities to allow certain students, military members, and other personnel to volunteer or work within the facility in appropriate roles; allows an out-of-state health care professional to practice in Kansas without licensure in Kansas; and adjusts certain conditions of licensure, certification, or registration for health care professionals.

[*Note:* The provisions of this section were originally enacted in 2020 Special Session HB 2016 and were extended until March 31, 2021, by 2021 SB 14, at which point they expired.]

The bill amends the renewed statute to remove a provision exempting health care professionals from payment of a licensing, certification, or registration fee under certain circumstances.

Additionally, the bill amends the subsection allowing out-of state health care professionals to practice in Kansas to:

- Clarify that the subsection does not authorize a health care professional to practice a profession that is not authorized by Kansas law;
- Specify that such practice must be for the purposes of preparing for, responding to, or mitigating any effect of COVID-19;

- Require health care professionals practicing under the subsection to notify the appropriate Kansas regulatory body of such practice, within seven calendar days of initiating practice in Kansas, on a form and in a manner prescribed by the regulatory body; and
- State that such health care professionals shall be subject to all rules and regulations applicable to the practice of the licensed profession in Kansas and considered a licensee for the purposes of the applicable practice act administered by the regulatory body.

The bill also amends a section allowing the State Board of Healing Arts to grant temporary emergency licenses for the purpose of responding to COVID-19 to specify that no such license to practice a profession may be issued unless the profession is required by law to be licensed, certified, or registered in Kansas.



## **INSURANCE**

### **Premium Tax Exemption for Self-Funded Health Plans; SB 335**

**SB 335** exempts certain qualified trade, merchant, retail, and professional associations and business leagues (business entities) in the state that provide health benefits through a self-funded health plan subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), and not subject to the jurisdiction of the Kansas Insurance Department, from payment of the annual premium tax to the Department.

Current law requires each of these business entities, no later than May 1 of each year, to pay a tax to the Department at the rate of 1.0 percent per annum upon the annual Kansas gross premium collected during the preceding calendar year. For persons and entities with a principal office in a metropolitan area with boundaries in Kansas and associations with a principal office within the state that offer policies to non-residents of Kansas, the premium tax owed is based on the gross premium collected during the preceding year on health benefit plans issued to members having their principal place of business in Kansas. Such persons or entities are entitled to deduct any annual Kansas gross premiums returned due to cancellation, dividends returned to members, or expenditures used for the purchase of reinsurance or stop-loss coverage.

### **Kansas-Domiciled Life Insurance Companies—Permissible Investment Options; SB 336**

**SB 336** amends certain investment limitation requirements to increase the permissible investment options in equity interests and preferred stock for Kansas-domiciled life insurance companies. The bill also corrects the unlawful delegation of authority in current statutes.

#### ***Investments in Preferred Stock***

The bill retains the existing statutory limitation on a Kansas-domiciled life insurance company's investment in the preferred stock of, or stocks guaranteed by, a corporation incorporated in the United States or any of its states, districts, insular, or territorial possessions, or incorporated in Canada or any of its provinces, to 25.0 percent of its admitted assets as shown on the annual report or more recent quarterly financial statement filed by the life insurance company with the Commissioner of Insurance (Commissioner). The bill removes all additional requirements placed on investments in preferred stock by Kansas-domiciled life insurance companies.

#### ***Investments in Equity Interests***

The bill increases a Kansas-domiciled life insurance company's allowable investment in the equity interests of any business entity organized and doing business under the laws of the United States, any state, the District of Columbia, Canada, or any of its provinces, from 15.0 percent to 20.0 percent of its admitted assets, based on cost.

The bill removes five of seven existing limitations on investments in equity interests and the writing of call options by a Kansas-domiciled life insurance company. Regarding the two remaining limitations, the bill:

- Removes language prohibiting a Kansas-domiciled life insurance company from investing in more than 5.0 percent of the outstanding equity interests of the above-described business entities. The bill retains language limiting the insurance company's investment in the outstanding equity interests of such business entities to no more than 2.0 percent of the insurance company's admitted assets, determined on the basis of the cost of such equity interests to the insurance company at the time of purchase; and
- Retains language pertaining to the valuation of an equity interest owned by an insurance company that is obligated under an unexpired written call option.

### ***Unlawful Delegation of Authority***

To correct the unlawful delegation of authority in current statutes, the bill removes the requirement the annual report or quarterly financial statement of Kansas-domiciled life insurance companies filed with the Commissioner be on a form prescribed by the National Association of Insurance Commissioners and instead requires these documents to be filed in the form and manner prescribed by the Commissioner in rules and regulations.

### **Terminating the Securities Act Fee Fund Transfer to the State General Fund; SB 392**

**SB 392** amends and repeals provisions in the Kansas Uniform Securities Act that require a transfer of unencumbered funds in excess of \$50,000 to the State General Fund from the Securities Act Fee Fund of the Kansas Insurance Department on the last day of each fiscal year. [Note: The 2021 Legislature suspended the transfer in both FY 2021 and FY 2022.]

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

### **Amendments to Unfair Trade Practices Law and Uniform Insurance Agents Licensing Act—Unfair Discrimination and Rebates; SB 448**

**SB 448** amends the state Unfair Trade Practice Law to exempt additional practices from those practices considered to be unfair or deceptive acts or practices in the business of insurance that relate to unfair discrimination and rebates. The bill amends the Uniform Insurance Agents Licensing Act to clarify that allowed rebating practices are not grounds for disciplinary action against an applicant or license holder seeking or issued a license under such act. The bill also amends law relating to fire and casualty insurance rates to replace the term "agent" with "producer."

[Note: "Rebating" is the term used to encompass the offering or providing of any rebate, discount, abatement, credit, or reduction of premium named in an insurance policy, any special favor or advantage in the dividends or benefits to accrue, or other valuable consideration not specified in the policy, as an inducement to the sale of a policy.]

***Practices Exempted from Definition of Discrimination or Rebating***

The bill amends state Unfair Trade Practices Law with language from the National Association of Insurance Commissioners (NAIC) Unfair Trade Practices Model Law to exempt the following from practices considered as unfair and deceptive acts or practices pertaining to unfair discrimination and rebates:

- Engaging in an arrangement that violates Section 106 of the Bank Holding Company Act Amendments of 1972, as interpreted by the Board of Governors of the Federal Reserve System or Section 5(q) of the Home Owners' Loan Act [Note: these acts generally prohibit a bank from conditioning the availability or price of one product on the requirement that the customer also obtain another product from the bank or an affiliate of the bank];
- The offer or provision by insurers or producers, by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if the product or service:
  - Relates to the insurance coverage; and
  - Is primarily designed to satisfy one or more of nine conditions listed in the bill;
  - The cost to the insurer or producer offering the product or service to any given customer is reasonable in comparison to such customer's premiums or insurance coverage for the policy class;
  - If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that the customer is provided with contact information, upon request, to assist the customer with questions regarding the product or service;
  - The availability of the value-added product or service must be based on documented objective criteria and offered in a manner that is not unfairly discriminatory;
  - If the insurer or producer does not have sufficient evidence but has a good-faith belief that the product or service is primarily designed to satisfy one or more of the nine listed conditions, the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for not more than one year. Notice of such a pilot or testing program must be provided to the Commissioner and an insurer or producer may proceed unless the Commissioner objects within 21 days of the notice; and
  - The Commissioner of Insurance (Commissioner) is authorized to adopt rules and regulations when implementing the permitted practices to ensure consumer protection; and
- An insurer or producer may:

- Offer or give non-cash gifts, items, or services, including meals to or charitable donations on behalf of a customer, in connection with, or to commercial or institutional customers in connection with, the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost is determined reasonable; and
- Conduct raffles or drawings to the extent permitted by state law, as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the Commissioner, and the drawing or raffle is open to the public. All of these options must be offered in a manner that is not unfairly discriminatory and must not require the customer purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service; and
- An insurer, producer, or representative of an insurer or producer cannot offer or provide insurance as an inducement to the purchase of another policy.

### ***Disciplinary Action on License***

The bill amends the Uniform Insurance Agents License Act to clarify that rebating practices permitted by law are not grounds for the Commissioner to deny, suspend, revoke, or refuse to renew any license issued under the Uniform Insurance Agents Licensing Act.

### **Coverage for PANS and PANDAS, State Employee Health Plan Test Track and Report; HB 2110**

**HB 2110** requires, for the next State Employee Health Plan (SEHP) coverage year (Plan Year 2023), the State Employees Health Care Commission to provide coverage for the diagnosis and prescribed treatment for pediatric acute-onset neuropsychiatric syndrome (PANS) and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS), for the purposes of studying the utilization and cost of such coverage.

The bill requires the Commission, pursuant to the “test track” or pilot program requirements in the Insurance Code (KSA 40-2249a), to submit a report to the President of the Senate and the Speaker of the House of Representatives on or before March 1, 2024, which includes the following information pertaining to the mandated coverage for PANS and PANDAS provided during Plan Year 2023:

- The impact the mandated coverage for PANS and PANDAS required by the bill has had on the SEHP;
- Data on the utilization of coverage for PANS and PANDAS by covered individuals and the cost of providing such coverage; and
- A recommendation whether such mandated coverage should continue in the SEHP or whether additional utilization and cost data is required.

At the next legislative session following receipt of the report, the bill authorizes the Legislature to consider whether to require coverage for PANS and PANDAS in any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, or health maintenance organization that provides coverage for accident and health services and that is delivered, issued for delivery, amended, or renewed in this state on or after July 1, 2025.

### **Captive Insurance Law—TEFFI Insurance Companies; HB 2547**

**HB 2547** amends and enacts law supplemental to the Captive Insurance Act to allow a technology-enabled fiduciary financial institution (TEFFI) insurance company to operate as an authorized captive insurance company in Kansas.

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

### ***Technology-enabled Fiduciary Financial Institution Insurance Companies Authorized (New Section 1)***

#### *Certificate of Authority*

The bill provides that, in addition to the types of insurance permitted under the Captive Insurance Act, the certificate of authority issued to a TEFFI insurance company shall:

- Authorize the TEFFI insurance company to provide contracts of suretyship or credit insurance where the obligee or insured is:
  - An affiliated TEFFI;
  - An affiliated fidfin trust; or
  - Any other affiliated company;
- Provide the TEFFI insurance company with authorization to insure its affiliated companies that are investors in an investment fund against liability, loss, or damage (*i.e.*, fraud, theft, or conversion of assets by an investment fund manager and breach of an obligation of a transferor, assignor, or investor in an investment fund);
  - If such coverages are not included within the classes outlined in KSA 40-1102, such coverages will be deemed included, and the Commissioner of Insurance (Commissioner) will be required to assign these coverages to an appropriate line of business for reporting purposes;
- List events that will be considered, for the purpose of a policy or product offered by a TEFFI insurance company issue, as “fortuitous events” (*i.e.*, any action taken by an investment fund manager that affects the economic value of an investor’s interest in an investment fund in response to the attempted transfer of such interest in an investment fund to an affiliated fidfin trust); and

- Exempt a TEFFI insurance company from a naming requirement in the Captive Insurance Act;
  - The TEFFI insurance company will not be required to incorporate “captive” into its name if the company uses any of these identifiers in its name: “Technology-enabled fiduciary financial institution insurance company” or “TEFFI insurance company”; “Kansas e-commerce fidfin insurance company”; or “KEFFI”.

**Place of business; board of directors and residency; service contracts; examination.** The bill establishes requirements specific to the location of the principal place of business and membership of the board of directors for a TEFFI that receives a certificate of authority under the Captive Insurance Act and service contracts as follows:

- The principal place of business for a TEFFI insurance company may be located in the same or shared office premises with an affiliated TEFFI or other TEFFI insurance company;
- Any person who serves as a member of the board of directors of an affiliated TEFFI or other affiliated company may concurrently fulfill the Kansas residency requirement contained in the TEFFI Act (KSA 9-2306) and may:
  - Serve on the board of a directors of a TEFFI insurance company that is organized as a corporation or serve as a manager of a TEFFI that is organized as a limited liability company; and
  - Fulfill the applicable Kansas residency requirements of the Captive Insurance Act (KSA 40-4306(d));
- A TEFFI insurance company is permitted to enter into service contracts with any other TEFFI insurance company, an affiliated TEFFI, or affiliated companies that provide for services to be performed:
  - For the TEFFI insurance company, including insurance companies that operate with or without direct employees; or
  - By the TEFFI insurance company;
- Personnel who perform services for a TEFFI insurance company, either as employees of the company or pursuant to service contracts, are permitted to concurrently perform services for any other TEFFI insurance company, an affiliated TEFFI or an affiliated company thereof, either as employees or pursuant to service contracts; and
- A TEFFI insurance company is not be required to employ, engage, or contract more than one employee in Kansas to provide services for such company or to facilitate any examinations required by the Captive Insurance Act.

**Payment-in-kind policies; financial statements.** The bill also establishes criteria for TEFFI insurance companies that issue payment-in-kind policies (the definition for this term is outlined later in this bill summary). Among the requirements, the bill provides:

- If the TEFFI insurance company issues payment-in-kind policies that expressly require it to hold a sufficient amount of in-kind assets to meet the full obligation of such payment-in-kind policies, the insurance company must hold in-kind assets in a total amount determined to be actuarially prudent to meet its obligations to make claim payments, but in no event may this amount be less than the sum of the aggregate obligations of and for such payment-in-kind policies;
  - If the TEFFI insurance company issues payment-in-kind policies that do not expressly require a certain amount of in-kind assets to be held, the bill requires the company to hold in-kind assets to the extent the company determines to be actuarially prudent and confirmed by a third-party actuary to meet the company's obligation to make claims payments;
- A TEFFI insurance company is required to satisfy the claims under a payment-in-kind policy by delivering to the qualified policyholder in-kind assets or a combination of in-kind assets pursuant to the schedules attached to the policy. The bill would provide for the types of in-kind assets and combination of such assets permitted;
- Any in-kind assets held pursuant to the bill's provisions are required to be counted as part of the reserves, capital, and surplus of a TEFFI insurance company and reported as for the primary and predominant business activity of the writing of insurance or the reinsuring of risks, except that the TEFFI insurance company meeting the capital requirements in the Captive Insurance Act (40-4304) is not required to hold any other assets so long as such in-kind assets are sufficient to meet its obligations to make claim payments under payment-in-kind policies;
  - All revenue and income generated by the in-kind assets, whether realized or unrealized, will be deemed income derived from the business activity of the writing of insurance or the reinsuring of risks underwritten by the TEFFI insurance companies. The bill further provides for the reporting of net income and net loss in statutory financial statements. All payment-in-kind assets required to be held by the TEFFI insurance company are required to be reported on the company's statutory balance sheet (satisfying the company's payment-in-kind obligations); and
  - A TEFFI insurance company is required to report any required items in a statutory financial statement in the segment reporting section of the footnotes prepared in accordance with generally accepted accounting principles (GAAP) and is also required to include in its complete statutory financial statements' footnote reporting, other information prepared in accordance with GAAP;
- Any insurance company, regardless of its jurisdiction, is permitted to hold equity interests in an affiliated TEFFI and may utilize such equity interests as in-kind assets when issuing payment-in-kind policies to such affiliated TEFFI or other qualified policyholder; and

- A payment-in-kind policy issued to a qualified policyholder will be fully enforceable in accordance with the terms and conditions included in the definitions, as amended by the bill.

**Organization; policy governance; legal forum.** The bill includes provisions governing examination requirements, the organization of the TEFFI insurance company under the Captive Insurance Act and other Kansas law, and forum selection, as follows:

- A TEFFI insurance company or other insurance company organized under incorporation provisions of the Captive Insurance Act (KSA 40-4306) that has been issued a certificate of authority will be deemed an “insurance company” as defined in KSA 40-222c. An insurance company described under the bill’s provisions is considered to have as its primary and predominant business activity the writing of insurance or the reinsuring of risks underwritten by insurance companies and is subject to the supervision of the Commissioner;
- A TEFFI insurance company that has been issued a certificate of authority will be permitted, subject to compliance with provisions relating to conditions under which insurance may be written (KSA 40-214), to do business in any other state or territory of the United States;
- A TEFFI policy is permitted to include a provision that such policy shall be governed by, and construed in accordance with, the laws of the state of Kansas and such policy provision shall control over any contrary provision of state law regarding conflict of laws;
- A TEFFI policy is permitted to also include a provision that any suit, action, or proceeding arising out of or relating to such policy shall be brought in any district court of Kansas or the U.S. District Court for the district of Kansas and such provision shall be fully enforceable; and
- A TEFFI policy issued in connection with an affiliated fidfin trust or fidfin transaction will be required to respect the form, treatment, and character of such affiliated trust or transactions under the laws of this state notwithstanding the treatment or characterization of such transactions under GAAP or for tax purposes.

The bill also addresses the construction of provisions pertaining to the certificate of authority issued to a TEFFI insurance company to state the provisions shall be construed in a manner that shall not be disruptive to state efforts to establish a coherent policy with respect to a TEFFI insurance company, a TEFFI policy, payment-in-kind policies, TEFFIs, or any other matter of substantial public concern.

The provisions pertaining to the certificate of authority issued to a TEFFI insurance company are a part of and supplemental to the Captive Insurance Act.



### ***Definitions—Captive Insurance Act (Section 2)***

The bill creates several definitions in the Captive Insurance Act specific to TEFFIs and TEFFI insurance companies. Among the new definitions are:

- “Affiliated technology-enabled fiduciary financial institution” to mean a TEFFI;
- “In-kind asset” to mean:
  - Any loan, financing, or extension of credit, including to an affiliated fidfin trust, originated by a TEFFI;
  - One or more equity interests in one or more investment funds, each an interest in an investment fund, or one or more equity interests in one or more TEFFIs;
  - Any loan, financing, or extension of credit secured by the pledge of equity of one or more interests in an investment fund or the cash flow derived as a result;
  - Any other assets that serve as collateral securing such loans, equity, or debt financing or extension of credit described in this definition; and
  - Any beneficial interests in trusts that own assets described in this definition that are held by an insurance company for the purpose of enabling such insurance company to meet its obligations to make claim payments under payment-in-kind policies by delivering such assets;
- “Payment-in-kind policy” to mean a policy that, along with applicable schedules, is required to be in writing and which satisfies the following conditions:
  - The policyholder of such policy is a qualified policyholder;
  - Is issued by a TEFFI insurance company or an insurance company organized in a jurisdiction other than Kansas;
  - Provides that such insurance company has the option, in such company’s sole discretion, to make claim payments, in whole or in part, in cash, or in the form of in-kind assets rather than cash pursuant to schedules attached to the policy as required by this definition’s provisions, and agreed to in writing by the qualified policyholder;
  - Provides for such payment-in-kind policy to be fully enforceable with such policy’s terms and this definition’s provisions;
  - May provide for such payment-in-kind policy or provisions relating to in-kind assets and payments thereof to be governed by, and construed in accordance with, the laws of the state of Kansas and such policy or provisions shall control over any contrary provision of state law regarding conflict of laws and any such provision shall be fully enforceable;
  - May provide that any suit, action, or proceeding arising out of or relating to such payment-in-kind policy shall be brought in any district court of this state or the U.S. District Court for the District of Kansas, and any such provision shall be fully enforceable;

- May be a contract of suretyship or credit insurance (as provided in New Section 1);
  - Contains one or more schedules to such payment-in-kind policy that sets out a description of the specific in-kind assets that the insurance company may deliver to the qualified policyholder to make claim payments as agreed to in writing by the qualified policyholder;
  - May include a copy of the governing documents in effect at the time of issuance of such payment-in-kind policy of any legal entity that is the issuer of or obligor under such in-kind assets;
  - Includes a provision that the qualified policyholder agrees the insurance company has no obligation to provide, and the qualified policyholder has no additional rights to, any further disclosure regarding the in-kind assets and shall not rely on any other disclosures provided by the insurance company and the provisions within this definition;
  - Includes a provision that the qualified policyholder agrees such insurance company has no obligation to make claim payments in any form other than the in-kind assets specified in such schedules;
  - Requires the qualified policyholder to acknowledge that such insurance company has no obligation to deliver to such qualified policyholder any underlying assets in the chain of ownership below the in-kind assets specified in such schedules; and
  - Requires the qualified policyholder to acknowledge that:
    - Such qualified policyholder has no recourse against the insurance company with respect to any in-kind assets other than those in-kind assets scheduled and attached to such payment-in-kind policy; and
    - Any such recourse shall be limited to only those scheduled in-kind assets that the insurance company, in its sole discretion, makes available to such qualified policyholder as an in-kind payment in response to a claim initiated by such qualified policyholder;
- “Technology-enabled fiduciary financial institution insurance company” to mean a pure captive insurance company that:
    - Is related to a TEFFI by common ownership; and
    - Owns, directly, indirectly, or beneficially, at least 5.0 percent of the equity interests of a TEFFI, including any equity interests in such TEFFI’s holding company.

The bill will require, for the calculation of the TEFFI insurance company’s ownership of a TEFFI, both voting and nonvoting equity interests to be included in the calculation, and any equity interests of the TEFFI owned by an affiliate of this TEFFI insurance company to be attributed to such insurance company.

Other definitions established by the bill include: affiliated fidfin trust, common ownership, fidfin trust, interest in an investment fund, investment fund, investor in an investment fund,

manager, qualified policyholder, technology-enabled fiduciary financial institution, technology-enabled fiduciary financial institution policy, and technology-enabled fiduciary financial institution policyholder. The bill also amends the definition of “affiliated company.”

***TEFFI Insurance Companies—Surety Services and Credit Insurance; Renewal Date; Privacy of Qualified Policyholders (Section 3)***

The bill amends a prohibition in the Captive Insurance Act pertaining to certain lines of insurance and coverage that a captive could not provide, to specify an exception that would allow a TEFFI insurance company to be permitted to provide contracts of suretyship and credit insurance, in accordance with the certificate of authority provisions stated in the bill.

The bill also amends renewal provisions in this act to provide the certificate of authority renewal date for a TEFFI insurance company to be the later of March 1 or the maturity date of the last payment-in-kind asset held by that insurance company.

The bill further amends the law to provide for the privacy of both the qualified policyholder and those who have established an affiliated fidfin trust or alternative asset custody account in court proceedings, as follows:

- *Qualified policyholder* – the privacy in any court proceeding shall be protected if the TEFFI insurance company so petitions the court. Upon the filing, any information including, but not limited to, an instrument, inventory, statement, or verified report produced by the TEFFI insurance company regarding a policy issued to a qualified policyholder or payment-in-kind assets held by the TEFFI insurance company to satisfy claims, all payment-in-kind policies, all relevant petitions, and all court orders thereon, would be sealed upon filing and not made part of the public record of the proceeding;
  - Such petition would be available to the court, the Commissioner, the TEFFI insurance company, their attorneys, and to other persons as the court may order upon a showing of good cause; and
- *Affiliated fidfin trust or alternative asset custody account holder* – the privacy in any court proceeding shall be protected if the acting trustee, custodian, trustor, or other beneficiary so petition the court. Upon the filing, any information, including the instrument, inventory, statement filed by any trustee or custodian, annual verified report of the trustee or custodian, and all relevant petitions, and all court orders thereon, would be sealed upon filing and not made part of the public record of the proceeding;
  - Such petition would be available to the court, the trustor, the trustee, the custodian, any beneficiary, their attorneys, and to other persons as the court may order upon a showing of good cause.

***Naming of Captive Insurance Companies—Exemption from Use of “Captive” in Company Name (Section 4)***

The bill amends provisions in the Captive Insurance Act pertaining to the use of the word “captive” into the name of every captive insurance company organized in Kansas to allow for an

exception from this naming requirement as provided in the bill's provisions pertaining to the certificate of authority for a TEFFI insurance company.

***Investment Requirements; In-kind Assets (Section 5)***

The bill amends provisions in the Captive Insurance Act pertaining to investment requirements to allow insurance companies organized in a jurisdiction other than Kansas and Kansas TEFFI insurance companies to hold in-kind assets in accordance with provisions of this bill. The bill further provides any such in-kind assets required to be held shall be counted as part of the reserves, capital, and surplus of such insurance companies required for the primary and predominant business activity of the writing of insurance or the reinsuring of risks underwritten by TEFFI insurance companies. The bill also permits a TEFFI insurance company to hold equity interests in an affiliated TEFFI.

## JUDICIARY

### **Kansas Uniform Directed Trust Act; SB 141**

**SB 141** enacts the Kansas Uniform Directed Trust Act (UDTA) to allow for the creation of directed trusts and amends provisions in the Kansas Uniform Trust Code (UTC) to reflect the enactment of the UDTA.

#### ***Definitions (New Section 2)***

The bill defines several terms referenced in the UDTA, including “breach of trust,” “directed trust,” “directed trustee,” “person,” “power of direction,” “settlor,” “state,” “terms of a trust,” “trust director,” and “trustee.” Among the UDTA definitions in the bill:

- “Directed trust” means a trust for which the terms of the trust grant a power of direction;
- “Power of direction” means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee;
- “Directed trustee” means a trustee that is subject to a trust director’s power of direction, including a power over the investment, management, or distribution of trust property or other matters of trust administration. The term excludes the powers described in a power of appointment described elsewhere in the UDTA;
- “Trust director” means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee. The person is a trust director whether or not the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or settlor of the trust; and
- “Terms of a trust” means the manifestation of the settlor’s intent regarding a trust’s provisions as expressed in the trust instrument or established by other evidence that is admissible in a judicial proceeding. “Terms of the trust” also may mean the trust provisions as established, determined, or amended by a trustee or trust director in accordance with applicable law, court order, or a nonjudicial settlement agreement under the UTC.

#### ***Applicability (New Section 3)***

The bill states, for a trust with its principal place of administration in Kansas and created before July 1, 2022, the UDTA applies only to a decision or action occurring on or after that date. If the principal place of administration of the trust is changed to Kansas on or after July 1, 2022, the UDTA applies only to a decision or action occurring on or after July 1, 2022.

The bill also states without precluding other means to establish a sufficient connection with the designated jurisdiction in a directed trust, terms of the trust which designate the principal place of administration of the trust are valid and controlling if:

- A trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction;
- A trust director's principal place of business is located in or a trust director is a resident of the designated jurisdiction; or
- All or part of the administration occurs in the designated jurisdiction.

#### ***Governing Law (New Section 4)***

The bill states that common law and principles of equity supplement the UDTA except to the extent modified by the UDTA or other Kansas law.

#### ***Power of Appointment (New Section 5)***

The bill defines, for the purposes of this section, "power of appointment" to mean power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over trust property and further specifies the UDTA does not apply to a:

- Power of appointment;
- Power to appoint or remove a trustee or trust director;
- Power of a settlor over a trust to the extent the settlor has a power to revoke the trust;
- Power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of the beneficiary or beneficiary's representative, with respect to the exercise or nonexercise of the power; or
- Power over a trust if the terms of the trust provide that the power is held in a nonfiduciary capacity in order to achieve the settlor's tax objectives under the Internal Revenue Code.

The bill also states unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in or power of appointment over trust property which is exercisable while the person is not serving as a trustee is a power of appointment and not a power of direction.

### ***Power of Direction; General Principles (New Sections 6 and 7)***

The bill states the terms of a trust may grant a power of direction to a trust director, and unless the terms of a trust provide otherwise, such trust director may exercise any further power appropriate to the exercise or nonexercise of a power of direction granted to the director under this section and trust directors with joint powers must act by majority decision.

The bill states a trust director is subject to the same rules as a trustee in a like position and under similar circumstances in the exercise or nonexercise of a power of direction or further power regarding a payback provision in the terms of a trust necessary to comply with Medicaid reimbursement requirements and a charitable interest in the trust, including notice regarding the interest to the Attorney General.

### ***Fiduciary Duties and Liabilities of Trust Director (New Section 8)***

The bill outlines the trust director's fiduciary duties and liabilities with respect to a power of direction or further power of direction. If the power is held individually, a trust director has the same fiduciary duty and liability in the exercise or nonexercise of the power as a sole trustee in a like position and under similar circumstances. If the power is held jointly with a trustee or another trust director, the trust director has such duty and liability as a cotrustee in a like position and under similar circumstances.

The bill further specifies that the terms of the trust may impose additional duties and liabilities not specified by the UDTA and also may vary the director's duty or liability to the same extent the terms of the trust may vary the duty or liability of a trustee in a like position and under similar circumstances. In addition, unless the terms of a trust provide otherwise, a trust director that is licensed, certified, or otherwise authorized by law other than the UDTA to provide health care in the ordinary course of the director's business or practice of a profession, to the extent the director acts in that capacity, has no duty or liability under the UDTA.

### ***Duties of Directed Trustee; Release for Breach of Trust (New Section 9)***

Under provisions of the bill, a directed trustee is required to take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction or further power unless, by complying, the trustee would engage in willful misconduct. If a directed trustee has reasonable doubt about its duty under this section, it may petition the district court for instructions. The terms of a trust may impose additional duties and liabilities on a directed trustee in addition to the duties and liabilities specified by this section.

A trust director purporting to release a trustee or another trust director from liability for breach of trust is not effective if:

- The breach involved the trustee's or other director's willful misconduct;
- The release was induced by improper conduct of the trustee or other director in procuring the release; or
- At the time of the release, the director did not know the material facts relating to the breach.

### ***Information Required to be Provided by Director and Trustee (New Section 10)***

The bill provides that a trustee is required to provide information to a trust director to the extent the information is reasonably related to both the powers or duties of the trustee and the powers or duties of the director.

A trust director is required to provide information to a trustee or another trust director to the extent the information is reasonably related to both the powers or duties of the director and the powers or duties of the trustee or other director.

The bill also specifies that when a trustee or trust director acts in reliance on information provided by the other, the trustee or director is not liable for a breach of trust resulting from the reliance, unless the trustee or director engages in willful misconduct.

### ***Duties Not Required (New Section 11)***

The bill states, unless the terms of a trust provide otherwise, neither a trustee nor a trust director has a duty to monitor a trustee, trust director, or another director or to inform or give advice to a settlor, beneficiary, trustee, or trust director concerning an instance in which the trustee or director might have acted differently than the trustee or other director. The bill specifies that if a trustee or trust director takes an action described in this section, that trustee or trust director does not assume the duty excluded by this section.

### ***Cotrustee Duty and Liability (Section 12)***

The bill provides that the terms of a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power of the other cotrustee to the same extent that in a directed trust a directed trustee is relieved from duty and liability with respect to a trust director's power of direction under other provisions of the UDTA.

### ***Breach of Trust Action (New Sections 13 and 14)***

The bill requires an action against a trust director for breach of trust to be commenced within the same limitation period as an action for breach of trust against a trustee in a like position and under similar circumstances under the UTC. A report or accounting has the same effect on the limitation period for an action against a trust director for breach of trust that the report or accounting has under the UTC in an action for breach of trust against a trustee in a like position and under similar circumstances. In an action against a trust director for breach of trust, the director may assert the same defenses a trustee in a like position and under similar circumstances could assert in an action for breach of trust against the trustee.

### ***Jurisdiction (New Section 15)***

The bill states that by accepting appointment as a trust director of a trust subject to the UDTA, the director submits to personal jurisdiction of Kansas courts regarding any matter related to a power or duty of the director. The bill further specifies this section does not preclude other methods of obtaining jurisdiction over a trust director.



### ***Rules (New Section 16)***

The bill states unless the terms of a trust provide otherwise, the rules applicable to a trustee in the UTC also apply to a trust director regarding the following:

- Acceptance of trusteeship;
- Giving of bond to secure performance of a trustee's duties;
- Reasonable compensation of a trustee;
- Resignation of a trustee;
- Removal of a trustee; and
- Vacancy in trusteeship and appointment of a successor trustee.

### ***Other Provisions (New Sections 17 and 18)***

The bill includes a uniformity provision and a provision specifying UDTA's interaction with the Electronic Signatures in Global and National Commerce (E-Sign) Act.

### ***Amendments to the Kansas Uniform Trust Code (Sections 19-22)***

The bill makes several amendments to the UTC to reflect the new provisions of the UDTA, as follows:

- Updates an reference to the IRS Code of 1986 to reflect the version in effect on July 1, 2022, contained in the definition of "power of withdrawal";
- Amends the definition of "terms of a trust" to be consistent with the definition created in the UDTA;
- Amends provisions governing default and mandatory rules to reflect the duty of a trustee to act in good faith is subject to those duties described in related sections of the UDTA;
- States, in provisions pertaining to a settlor's powers in revocable trusts, a trustee may follow a direction of the settlor that is contrary to the terms of the trust while a trust is revocable; and
- Amends law related to a cotrustee's performance of a trustee's function and the requirement of a trustee to exercise reasonable care regarding a breach of trust to make each subject to the provisions governing cotrustees in the UDTA.

## **Judicial Branch Surcharge; HB 2541**

**HB 2541** shifts deposit of the following fees and surcharges from Judicial Branch fee funds to the State General Fund: the first \$15 and 41.17 percent of the remaining amount of the driver's license reinstatement fee; docket fees received by the clerk of the Supreme Court; the balance of revenues received from district court docket fees, following deduction of other specified amounts; 15.25 percent of marriage license fees; and any additional charges that may be imposed by the Supreme Court.

The bill also removes provisions allowing expenditures to be made from the Judicial Branch Docket Fee Fund for educational and training services and programs and allowing fees to be charged for such services and programs. The bill removes outdated language regarding certain transfers and makes technical amendments to clarify language related to certain funds.

## **Criminal Restitution—Enforcement, Collection; Wage Garnishment; HB 2608**

**HB 2608** amends and repeals law related to enforcement and collection of criminal restitution, wage garnishment, and dormant judgments.

The bill amends a statute governing collection of restitution to provide that Kansas judicial districts are authorized to utilize the collection services of contracting agents for the purpose of collecting restitution owed under an order of restitution.

The bill amends the statute in the Kansas Criminal Code governing authorized dispositions when a person has been found guilty of a crime to remove language allowing collection of restitution as on a civil case judgment and to add language clarifying the applicable garnishment procedure. The bill also removes language in this section referencing procedures and statutes repealed by the bill.

The bill amends a statute in the Kansas Code of Criminal Procedure governing judgment and sentence to replace a reference to restitution enforcement statutes repealed by the bill with a reference to the statute governing collection of restitution.

The bill amends the definition of "earnings" for purposes of wage garnishment provisions to remove the phrase "paid or" from "compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise."

The bill amends a section in the Kansas Code of Civil Procedure governing when a judgment becomes dormant to provide that undisputed payments made prior to a request for a release of judgment are voluntary and not subject to refund or recoupment.

The bill repeals an article in the Kansas Code of Civil Procedure governing enforcement of judgment of restitution.

## **LAW ENFORCEMENT**

### **Custody and Disposition of Property Seized by Law Enforcement; SB 367**

**SB 367** makes various amendments to the statute governing custody and disposition of property seized by law enforcement, as follows.

The bill specifies that seized property shall be returned to its rightful owner or disposed of in accordance with the statute if no criminal charges are filed or prosecution is declined. The bill clarifies the procedure to be followed for filing a copy of the receipt provided when property is seized under a search warrant and allow for electronic filing of the receipt.

The bill adds “dangerous drugs” to provisions allowing for the taking of representative samples of and subsequent destruction or disposing of hazardous materials, and the use of such samples as evidence. The bill defines “dangerous drugs” and “representative sample.”

The bill allows a sheriff to designate someone to hold a sale of unclaimed property.

The bill amends a provision regarding disposition of a seized weapon when the individual from whom the weapon was seized is not convicted to clarify that, upon verifying whether the weapon is stolen, if the weapon is stolen or was seized from an individual the agency knows is not the owner of the weapon, the agency shall notify the owner of the weapon that the weapon may be retrieved.

If the weapon was seized from a juvenile, the agency is required to notify the parent or legal guardian of the juvenile that the weapon may be retrieved by the parent or legal guardian. If the agency determines there is no other more appropriate person to retrieve the weapon, the agency is required to notify the person from whom the weapon was seized that the weapon may be retrieved.

The bill adds a provision stating that, if the agency determines the individual authorized to retrieve a weapon under the above provisions is prohibited by state or federal law from possessing the seized weapon, the agency shall notify the individual that the weapon will not be returned due to the disqualification, which is described in the notice. The agency is prohibited from disposing of the weapon for 60 days after this notice to allow the individual to bring an action in an appropriate court challenging the agency’s determination. After 60 days, the agency may dispose of the weapon as provided by law, unless otherwise directed by the court.

An owner of a weapon prohibited by law from possessing the weapon is allowed to request the agency to transfer the weapon to a designated properly licensed federal firearms dealer or to bring an action in an appropriate court to request an order to transfer the weapon, as allowed by law.

### **Kansas Law Enforcement Training Center—KDOC Employees; SB 419**

**SB 419** creates and amends provisions in the Kansas Law Enforcement Training Act (Act) regarding certain employees of the Kansas Department of Corrections (KDOC).

The bill allows the Secretary of Corrections (Secretary), with the consent of the Director of Police Training of the Kansas Law Enforcement Training Center (KLETC), to designate an employee of KDOC to:

- Attend the KLETC or any training school certified under continuing law; or
- Attend courses provided by the KLETC or a certified training school.

The bill requires the KDOC and employee to be provided a transcript of the courses successfully completed.

The bill amends the definition of “police officer or law enforcement officer” in the Act by inserting a reference to special agents of the KDOC and by removing a reference to special investigators of the Juvenile Justice Authority (JJA) in the list of persons included in such terms. The bill further amends the definition to remove a reference to other employees of the JJA and specifies the list of excluded persons includes any employee of the KDOC other than special agents.

[*Note:* Executive Reorganization Order No. 42 abolished the JJA and transferred the jurisdiction, powers, functions, and duties of the JJA and the Commissioner of Juvenile Justice to the KDOC and the Secretary, effective July 1, 2013.]

## LEGISLATURE

### **Ad Astra 2 Congressional Redistricting; Sub. for SB 355**

**Sub. for SB 355** (Map Name: Ad Astra 2) redraws the state's four congressional districts using data obtained from the 2020 Census.

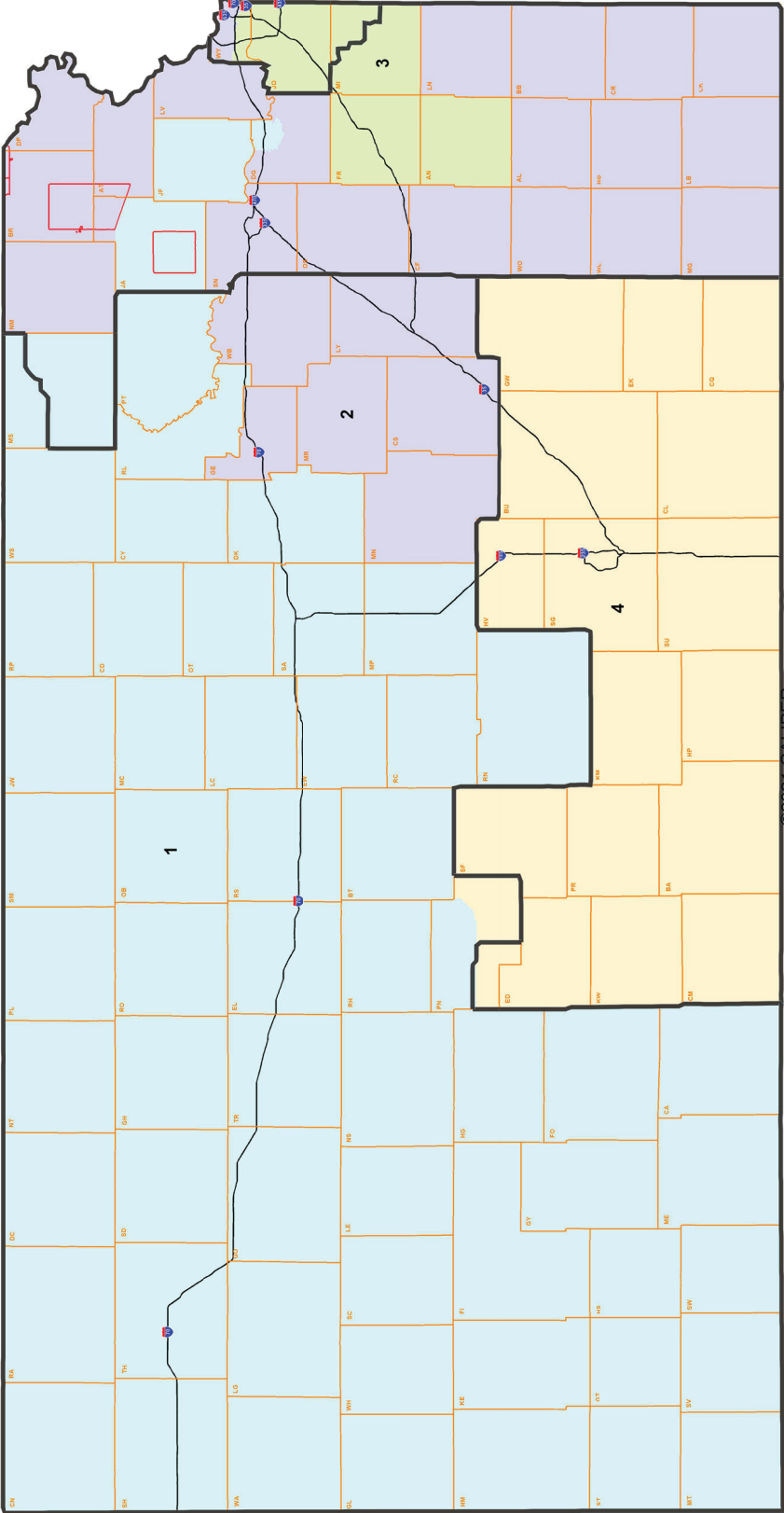
The ideal size for each congressional district is 734,470. In Ad Astra 2, each of the four districts has a population of 734,470, for an overall deviation of 0 persons or 0.00 percent.

Districts were built using counties, precincts, and census blocks. Ad Astra 2 splits the following counties: Douglas, Jackson, Pawnee, and Wyandotte.

The bill became effective upon publication in Issue 6A of the *Kansas Register* on February 10, 2022.

The Ad Astra 2 map is included on the following page. Visit [www.kslegresearch.org/KLRD-web/Redistricting.html](http://www.kslegresearch.org/KLRD-web/Redistricting.html) to view all proposed district plans with more detailed information and maps.

M3\_AdAstra\_2 for KLRD TR



Plan: M3\_AdAstra\_2 for KLRD TR

Map layers

County

Indian Reservation

Congressional Dist

Interstate Highways

District

1

2

3

4

0

25

50

75

Miles

Kansas Legislative Research Dept. 1/20/2022

Black Lines Show Boundaries of Existing 2012 Congressional Districts.

District	Population	Deviation	% Deviation
1	734,470	0	0%
2	734,470	0	0%
3	734,470	0	0%
4	734,470	0	0%

## **Joint Committee on State-Tribal Relations; Membership Requirements; HB 2462**

**HB 2462** removes committee membership requirements for legislators appointed to the Joint Committee on State-Tribal Relations.

Previously, legislators appointed to the Joint Committee on State-Tribal Relations were selected only from the membership of the standing committees on Federal and State Affairs and Judiciary, the House Committee on Taxation, and the Senate Committee on Assessment and Taxation.

## OPEN RECORDS

### **Captured License Plate Data; Open Records; SB 434**

**SB 434** amends law in the Kansas Open Records Act (KORA), as follows.

The bill amends a statute in KORA governing procedures for obtaining access to public records to require requests for records that contain captured license plate data or that pertain to the location of an automated license plate recognition system (ALPRS) submitted to a state or local law enforcement agency or governmental agency to be directed to the state or local law enforcement agency or governmental agency that owns, leases, or contracts for the ALPRS.

The bill also adds the above records to the statute governing records a public agency is not required to disclose and defines “automated license plate recognition system” and “captured license plate data” for the purposes of KORA.



## RETIREMENT

### **Kansas Police and Firemen's Retirement System Service Credits; HB 2481**

**HB 2481** authorizes, on and after July 1, 2022, members of the Kansas Police and Firemen's Retirement System (KP&F) to purchase service time credited as KP&F service for eligible prior in-state, non-federal governmental employment. Eligible members may not purchase service that is already credited as service time in another pension plan. The bill allows the purchase to be paid through a single, lump-sum payment or through payroll deductions. Costs are determined by an actuarial calculation based on the member's current age and salary, the number of years being purchased, and the actuarial assumptions in place at the time of purchase.

## STATE GOVERNMENT

### **Sale of Certain State Real Property; Sub. for SB 450**

**Sub. for SB 450** enacts law and amends law relating to the sale of certain state real property and surplus real estate.

#### ***Sale and Conveyance of Real Property—State Educational Institutions***

The bill amends law to permit, upon specific authorization of the State Board of Regents (Board) and in accordance with the Board's policies, the sale and conveyance of real property given as an endowment, bequest, or gift to a state educational institution.

The bill requires the Board to:

- Adopt policies governing the procedures under which state educational institutions may sell and convey real property given as an endowment, bequest, or gift to such institution; and
- Annually submit a report to the Legislature listing any real property transfers that occurred during the prior fiscal year pursuant to the requirements of this bill.

[*Note:* As defined in KSA 76-711, a “state educational institution” means the University of Kansas, Kansas State University, Wichita State University, Emporia State University, Pittsburg State University, and Fort Hays State University.]

#### ***State Surplus Real Estate***

The bill amends provisions pertaining to the disposition of proceeds from the sale of surplus real estate of state agencies to provide on and after July 1, 2022, all proceeds from each sale would be credited to the appropriate agency fund. Provisions of law added by this bill relating to the sale and conveyance of real property given as a gift, endowment, bequest, or gift will be subject to the requirements pertaining to the disposition of proceeds for such property and not to the requirements for disposition of proceeds applicable to State surplus real estate.

Under current law, these proceeds must be credited as follows:

- 20.0 percent of the proceeds from the sale must be credited to the agency that owns the property; and
- 80.0 percent of the proceeds from the sale must be credited to the Kansas Public Employees Retirement Fund (Trust Fund) for the payment, in full or part, of the unfunded actuarial pension liability as directed by the Kansas Public Employees Retirement System (KPERS).

[*Note:* The provisions pertaining to the disposition of proceeds requiring the crediting to the Trust Fund were added to law in 2012 Senate Sub. for Sub. for HB 2333, the KPERS Omnibus bill, which made several changes in retirement benefits and plan design to improve the

overall funding position of the Retirement System. Prior to enactment of this law, 80.0 percent of the proceeds were credited to the State General Fund.]

## **Kansas Semiquincentennial Commission; HB 2712**

**HB 2712** establishes the Kansas Commission for the United States Semiquincentennial Act (Act).

[*Note:* The U.S. Semiquincentennial, on July 4, 2026, will commemorate the 250th anniversary of the founding of the country.]

### ***Definitions (Section 1)***

The bill defines “act” to mean the Act and “commission” to mean the Kansas Commission for the United States Semiquincentennial (Commission).

### ***Kansas Commission for the United States Semiquincentennial (Section 2)***

The bill establishes the Commission within and as a part of the Department of Commerce (Department) in order to plan, encourage, develop, and coordinate the commemoration of the 250th anniversary of the founding of the United States and to recognize the impact of this event on the people of Kansas and the nation’s past, present, and future.

The bill requires the Commission to cooperate with the United States Semiquincentennial Commission (U.S. Commission) and various state agencies, boards, commissions, departments, and political subdivisions in order to execute commemorative events and implement education activities, events, and celebrations related to the semiquincentennial of the United States.

### ***Commission Members (Section 3)***

The bill designates the 20 voting members of the Commission including:

- The Secretary of Commerce or designee;
- The Executive Director of the Kansas African American Affairs Commission or designee;
- The Executive Director of the Kansas Hispanic and Latino American Affairs Commission or designee;
- The Executive Director of the Kansas State Historical Society or designee;
- Three members of the House of Representatives appointed by the Speaker of the House of Representatives, the House Majority Leader, and the House Minority Leader, respectively;

- Three members of the Senate appointed by the President of the Senate, the Senator Majority Leader, and the Senate Minority Leader, respectively;
- The State Regent of the Kansas Society Daughters of the American Revolution or designee;
- The President of the Kansas Society Sons of the American Revolution or designee;
- The President of the Kansas Historical Foundation or designee;
- One professor of American history from a Kansas institution of higher education appointed by the President of the State Board of Regents;
- One teacher of American history from a public school appointed by the State Board of Education;
- One representative appointed by the Kansas Native American Affairs Office;
- The Commander of the Kansas American Legion or designee;
- The Commander of the Kansas Veterans of Foreign Wars or designee;
- The President of the Sunflower Sampler Foundation or designee; and
- The Chairperson of the Kansas State Fair Board or designee.

The bill authorizes Commission members to be appointed for the duration of the Commission, but members will serve only for as long as such members remain in the position that originally qualified the member for appointment.

The bill provides that a vacancy on the Commission will not affect the powers of the Commission and each vacancy will be filled in the same manner as the original appointment.

#### ***Commission Purpose (Section 4)***

The bill requires the Commission to plan, coordinate, and implement a program in 2026 to commemorate the 250th anniversary of the founding of the United States. In developing the plans and overall program for the event, the Commission will:

- Give due consideration to related plans and programs developed by federal, state, local, and private groups;
- Hold public meetings to solicit the input of Kansas citizens throughout the state in developing programs:

- The first public meeting will be held within 90 days of the Commission's first meeting. Public meetings will continue throughout the Commission's existence;
- Showcase all counties of the state;
- Draw attention to the achievements, struggles, honors, innovations, and impacts of all people in the state;
- Clearly delineate all expenses incurred by the Commission in developing the program;
- Create a website to communicate plans for the semiquincentennial; and
- Solicit gifts and donations from private industry, corporations, and individuals to support the Commission's goals.

The bill allows the Commission to designate special committees with representatives from the U.S. Commission and various state agencies, boards, commissions, departments, and political subdivisions to plan, develop, and coordinate specific activities.

#### ***Meetings of the Commission (Section 5)***

Meetings of the Commission will be held throughout the state at times and locations determined by the Chairperson. The Chairperson will be selected by a majority vote of the Commission and may serve up to two consecutive two-year terms.

The first meeting of the Commission will be called by the State Regent of the Kansas Society Daughters of the American Revolution, or the State Regent's designee. The bill allows the Commission to meet in another manner where all participants can participate with each other at the same time, including an electronic platform, in the case of a national, state, or local emergency that makes meeting in person dangerous or impossible.

#### ***Reports (Section 6)***

The bill requires the Commission to submit a comprehensive report of specific recommendations for the commemoration of the 250th anniversary of the founding of the United States to the Governor, Secretary of Commerce, President of the Senate, and Speaker of the House on or before December 31, 2022. The report needs to be made publicly available on the Commission's website. The report is required to include:

- A detailed timeline of the Commission's plan for the overall program through 2027;
- The Commission's recommendations for the allocation of costs among public and private entities that provide financial and administrative assistance to the Commission;

- The projected number of jobs created through the implementation of the Commission's plan and overall program;
- The projected economic impact of the implementation of the Commission's plan and overall program on the economy of Kansas;
- The geographic impact of the Commission's plan and overall program on all the counties of Kansas; and
- Outputs and outcomes against which progress and success of the Commission's plan and overall program can be measured.

The bill also requires the Commission to submit an annual report detailing the Commission's activities to the Governor, Secretary of Commerce, Speaker of the House, and President of the Senate on or before December 31, 2023, and by December 31 each year thereafter. The annual report must include an accounting of funds received and expended during the year covered in the report, outputs and outcomes achieved, and whether those achievements meet the Commission's plan and overall program goals. The comprehensive report must be made available to the public on the Commission's website.

### ***Commission Funding (Section 7)***

The bill allows the Commission to accept, use, and dispose of gifts and donations of money, property, or personal services. The type and quantity of gifts must be enumerated and submitted each quarter to the Governmental Ethics Commission and will be made available on the Commission's website.

The bill establishes the Kansas Commission for the United States Semiquincentennial Gifts and Donations Fund (Fund) in the State Treasury, which will be administered by the Secretary of Commerce. The bill requires all expenditures from the Fund to be used for promoting the Commission and made in accordance with appropriations acts approved by the Director of Accounts and Reports issued pursuant to vouchers approved by the Secretary of Commerce or the Secretary's designee.

The bill requires the Director of Accounts and Reports to transfer all moneys and liabilities in the Fund to the operating expenditures account of the Economic Development Initiatives Fund (Department of Commerce) on December 31, 2027. On December 31, 2027, the Fund will be abolished.

### ***Other Provisions (Sections 8-10)***

Upon approval by the majority vote of the Commission, the bill would allow the Commission to:

- Procure supplies, services, and property;
- Enter into contracts;

- Expend funds donated or received pursuant to contracts entered into under the Act from the Fund; and
- Take action as necessary to enable the Commission to effectuate the purposes of the Act.

The bill establishes that Commission members will not receive compensation for work with the Commission and non-legislative citizen members of the Commission will not receive compensation, subsistence allowances, mileage, or reimbursement for expenses incurred during the performance of their Commission duties.

The bill establishes a December 31, 2027, sunset date for the Act. Upon the sunset of the Commission, any remaining property in possession of the Commission will be donated to local municipalities or other state agencies by the Secretary of Commerce.

### **Antisemitism; HCR 5030**

**HCR 5030** makes findings concerning antisemitism in Kansas and the United States and the adoption of a definition of the term by the International Holocaust Remembrance Alliance (IHRA).

The resolution states the State of Kansas adopts the non-legally binding IHRA working definition of antisemitism and requires the Kansas Department of Administration to ensure the definition is available as an educational resource for all state agencies. The resolution further states nothing in the resolution shall be construed to diminish or infringe upon any right protected by the First Amendment to the *U.S. Constitution*.

The resolution requires the Secretary of State to send enrolled copies of the resolution to the Jewish Community Relations Bureau/American Jewish Committee, the Combat Antisemitism Movement, Senator Corson, and Representatives Osman, Croft, Timothy Johnson, and Poskin.

## TRANSPORTATION AND MOTOR VEHICLES

### Down Syndrome Awareness License Plate; SB 506

**SB 506** authorizes a Kansas Down syndrome awareness distinctive license plate for issuance on or after January 1, 2023, for use on a passenger vehicle or truck registered for a gross weight of 20,000 pounds or less.

The bill authorizes the North Central Kansas Down Syndrome Society (Society) to authorize the use of its logo to be affixed on these license plates.

The bill requires the owner or lessee to pay the Society or the county treasurer a logo use royalty fee of not less than \$25 and not more than \$100 annually per plate.

The bill requires an applicant to apply at least 60 days prior to a person's renewal of registration date, on a form provided by the Director of Vehicles, Kansas Department of Revenue. The applicant must provide either the annual logo use authorization statement from the Society, or pay to the county treasurer the logo use royalty payment.

This license plate is not transferable to another person; however, the bill authorizes the Director of Vehicles to transfer the license plate from a leased vehicle to a purchased vehicle.

The bill requires the Society to provide an electronic mail address where applicants can contact the organization for information regarding the application process and, with the approval of the Director of Vehicles, to design the license plate.

Under continuing law, Kansas Down syndrome awareness license plates will be issued after the guarantee of an initial issuance of at least 250 license plates, and the North Central Kansas Down Syndrome Society must submit a nonrefundable amount not to exceed \$5,000 to defray costs of the Division of Vehicles for developing the distinctive license plate.

### Antique Vehicle Restoration; HB 2594

**HB 2594** creates an exemption in law related to vehicle identification number (VIN) offenses for antique vehicles.

Except under certain circumstances, Kansas law prohibits the destruction, removal, alteration, or defacing of a VIN when no part of the motor vehicle, trailer, or semitrailer has been stolen and a VIN has been assigned. Any law enforcement officer with knowledge of a vehicle having such a VIN is directed by law to seize and take possession of the motor vehicle or trailer, and the seized vehicle is classified as an article of contraband subject to destruction.

The bill creates an exception from the prohibition when a person removes and reinstalls a VIN or manufacturer's serial number on an antique vehicle, defined in continuing law as a vehicle more than 35 years old, if:

- The removal and reinstallation are necessary for the repair or restoration of the antique vehicle;



- The manufacturer's serial number or VIN is immediately reinstalled after the repair or restoration is complete; and
- The person does not know or has no reason to know that the antique vehicle is stolen.

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

## UTILITIES

### Pipeline Safety; HB 2329

**HB 2329** modifies the list of entities that are subject to Kansas Corporation Commission (KCC) rules and regulations adopted to ensure conformity with the federal Natural Gas Pipeline Safety Act (Act). The bill makes subject to such rules and regulations operators of “gathering lines,” or pipelines transporting gas from a current production facility to a transmission line or main, provided that such operators are regulated by the Act, and removes an exclusion for farming or activities associated with the production of oil or gas.

### Abandoned Oil and Gas Well Fund; HB 2591

**HB 2591** repeals the statute that authorizes quarterly \$100,000 State General Fund and \$200,000 Conservation Fee Fund transfers to the Abandoned Oil and Gas Well Fund in the Kansas Corporation Commission.

[*Note:* During the 2021 Legislative Session, two separate bills were enacted that made revisions to the same statute, KSA 2021 Supp. 55-193. 2021 HB 2022 repealed the statute, but 2021 HB 2007 amended the statute to prohibit the transfers for FY 2021, 2022, and 2023, which created a conflict. HB 2591 corrects this conflict.]

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

## VETERANS AND MILITARY

### Kansas Gold Star Families Memorial; SB 330

**SB 330** requires the Capitol Preservation Committee to approve plans to place a permanent memorial honoring Kansas Gold Star families on the Statehouse grounds. [Note: “Gold Star families” are families who have lost a family member in the line of military duty.]

The bill authorizes the Secretary of Administration to receive and expend moneys for the purpose of financing the creation and construction of the memorial and to remit all moneys received for such purpose to the State Treasurer.

The bill establishes the Kansas Gold Star Families Memorial Fund and authorizes the State Treasurer to deposit funds received for the purpose of financing the creation and construction of the memorial in the State Treasury to the credit of the Fund. Expenditures from the Fund are authorized for the creation and construction of the memorial and for other purposes as may be required by the grantor or donor.

The bill prohibits the expenditure of public funds for the creation or construction of the memorial.

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

## **WATER**

### **Public Water Supply Loan Fund Projects; SB 358**

**SB 358** allows financing from the Public Water Supply Loan Fund for public water supply projects that acquire water through a water transfer. It further amends the definition of “project” to also include any project related to the diversion or transportation of water acquired through a water transfer.

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