

2020 Summary of Legislation

2020 Special Session Summary of Legislation



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INTRODUCTION

This publication includes summaries of the legislation enacted by the 2020 Legislature. Brief summaries of bills whose vetoes were sustained and of appropriations bills are included in a separate section beginning on page 41.

During the 2020 Session, 589 bills were introduced: 261 in the Senate and 328 in the House. In addition, 208 Senate bills and 355 House bills were carried over from the 2019 Session, for a grand total of 1,152 bills that were alive during the 2020 regular session. 13 (1.1 percent) became law: 6 Senate bills and 7 House bills. All 13 that became law were introduced by committees. [*Note*: Substitute bills or bills with conference committee reports whose original subject matter was substantially modified from the content in the introduced sponsor bill are included in the former category.]

The Governor vetoed 4 bills. All vetoes were sustained. There were no line-item vetoes of Appropriations bills. No bills will be carried over to the 2021 Session of the Legislature. [*Note*: A separate summary of legislation for the special session of the 2020 Legislature is appended to this publication.]

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BUSINESS, COMMERCE, AND LABOR

Extension of UI Benefits; House Sub. for SB 27

House Sub. for SB 27 amends provisions of the Employment Security Law, commonly referred to as unemployment insurance (UI), pertaining to unemployment benefits. Workers who started to file UI claims on or after January 1, 2020, are eligible for a maximum of 26 weeks of benefits. Under previous law, the number of weeks for which a worker could claim benefits was capped at 16 weeks, 20 weeks, or 26 weeks if the Kansas unemployment rate (on a three-month seasonally adjusted average) was less than 4.5 percent, at least 4.5 percent but less than 6.0 percent, or at least 6.0 percent, respectively.

Under continuing law, workers must wait for a week prior to making a claim and receiving UI benefits. The bill grants to workers an additional week's benefit upon the completion of the third week of unemployment after the waiting week. This amount does not increase the total amount of benefits that a worker may claim.

The bill will sunset on April 1, 2021.

CRIMES AND CRIMINAL MATTERS

Restitution Orders; Senate Sub. for HB 2034

Senate Sub. for HB 2034 amends law related to court orders for restitution by criminal defendants.

Under previous law, a court was required to order restitution unless the court found compelling circumstances that would render a plan of restitution unworkable. The bill amends this provision to require a court to order restitution and to specify that ordered restitution shall be due immediately, unless the court orders that the defendant be given a specified time to pay or be allowed to pay in specified installments, or the court finds compelling circumstances that would render restitution unworkable, either in whole or in part. The bill amends continuing provisions requiring the court to state reasons for unworkability on the record and requiring the court to initiate collection proceedings if the defendant is in noncompliance with the restitution order after 60 days to reflect the above amendments. The collection provisions also are amended to reflect enacted changes to related statutes.

A provision is added to allow a defendant subject to a restitution order entered prior to the effective date of the bill to file a motion prior to December 31, 2020, proposing payment of restitution in specified installments, if the order does not give the defendant a specified time to pay or set payment in specified installments. The court may recall the restitution order from the assigned agent until the court rules on the motion. If the court does not order payment in specified installments, or if the defendant does not file a motion by the above date, the restitution will be due immediately.

The bill specifies the above amendments are procedural in nature and shall be construed and applied retroactively.

The bill amends the statute governing conditions of probation or suspended sentence to direct that reparation or restitution in such cases be made in accordance with the procedure amended by the bill.

EDUCATION

K-12 Education; Waivers for School Year Attendance Requirements; House Sub. for SB 142

House Sub. for SB 142 clarifies the authority of the State Board of Education (State Board) to grant waivers to the minimum number of school hours required each school year. The bill expands the circumstances in which a local board of education can apply to the State Board for a waiver to include conditions restricting the operation of public schools. The bill also amends the definition of “disaster” to include any declaration of a state of disaster emergency issued by the Governor or the closure of schools by order of the county or joint board of health, a local health officer, or the Secretary of Health and Environment.

KSA 72-3115(b) requires students in kindergarten attend at least 465 school hours, students in grades 1 through 11 attend at least 1,116 school hours, and students in grade 12 attend at least 1,086 school hours per school year.

The bill also includes a statement of legislative intent that school districts continue to pay hourly employees, including, but not limited to, paraprofessionals and custodial employees, during any school shutdown due to a disaster.

JUDICIARY

Extension or Suspension of Deadlines and Videoconferencing by Order of the Chief Justice during State of Disaster Emergencies; House Sub. for SB 102

House Sub. for SB 102 creates and amends law related to orders by the Chief Justice of the Supreme Court (Chief Justice) regarding deadlines, time limitations, and two-way electronic audio-visual communication (videoconferencing).

The bill creates provisions stating, notwithstanding any other provisions of law, during any state of disaster emergency declared pursuant to the statute providing for the same, the Chief Justice may issue an order to extend or suspend any statutory deadlines or time limitations, or authorize the use of videoconferencing in any court proceeding, when the Chief Justice determines such action is necessary to secure the health and safety of court users, staff, and judicial officers. The bill further provides that any order issued pursuant to these provisions may remain in effect for up to 150 days after a state of disaster emergency is terminated, and any order in violation of these provisions shall be void. These provisions will expire on March 31, 2021.

The bill amends the speedy trial statute in the Kansas Code of Criminal Procedure to authorize the Chief Justice to issue an order to extend or suspend any deadlines or time limitations in the statute pursuant to the provisions outlined above. The bill requires, upon termination of such order, any trial scheduled during the time such order was in effect to be placed back on the court schedule within 150 days.

Similarly, the bill amends the statute in the Code of Civil Procedure governing computation of time to authorize the Chief Justice to issue an order to extend or suspend the computation rules or time limitations established in the statute pursuant to the provisions outlined above.

LOCAL GOVERNMENT

Valley Center Deannexation; Hillside Cemetery District; SB 155

SB 155 deannexes all City of Valley Center territory within the Hillside Cemetery District, located in Sedgwick and Harvey counties, from the cemetery district, effective June 30, 2020. After July 1, 2020, any territory annexed by the City of Valley Center located within the Hillside Cemetery District will be excluded from the cemetery district upon annexation.

OPEN RECORDS

Open Records—Extension of Exceptions; Scrap Metal—Vehicle Photograph; Senate Sub. for HB 2137

Senate Sub. for HB 2137 amends the Scrap Metal Theft Reduction Act to remove the requirement that scrap metal dealers photograph the vehicle in which a junk vehicle or other regulated scrap metal property is delivered.

The bill also continues in existence the following exceptions to the Kansas Open Records Act:

- KSA 9-1810(b), concerning the Kansas Bank Commissioner's informal agreements with banks or trust companies;
- KSA 38-2310(c), concerning law enforcement records identifying victims of certain crimes;
- KSA 40-223j(c), concerning insurance actuarial reports used for counseling and discipline;
- KSA 40-409(j)(2), concerning records related to certain insurance policy valuations;
- KSA 40-6007(a), concerning documents related to insurer's own risk and solvency assessments;
- KSA 45-221(a)(52), concerning public records identifying the home address of certain officials;
- KSA 46-1129, concerning survey responses to audits conducted under the Legislative Post Audit Act;
- KSA 50-6a11(f), concerning tobacco sales data related to the Master Settlement Agreement;
- KSA 59-29a22(b)(10), concerning treatment records in the possession of a treatment facility; and
- KSA 65-6741, concerning court records related to unlawful abortions.

STATE FINANCES

State Budget—Appropriations; SB 66

SB 66 includes adjusted funding for fiscal year (FY) 2020 and FY 2021 for state agencies and FY 2020 and FY 2021 capital improvement expenditures for a number of state agencies.

Summary of Changes to Approved FY 2020 Expenditures

The FY 2020 revised budget totals \$18.7 billion, including \$7.8 billion from the State General Fund (SGF). This approved amount includes \$108.7 million of expenditure authority carried forward from FY 2019. The approved budget includes full-time equivalent (FTE) positions totaling 40,787.

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

- Legislative Coordinating Council (LCC): Add \$50.0 million, all from the SGF, for the novel coronavirus disease (COVID-19) response, to be released by the LCC following submission by the Director of the Budget and review by the joint Legislative Budget Committee;
- Adjutant General: Add \$15.0 million, all from the SGF, to the Kansas Division of Emergency Management for the COVID-19 response;
- Office of Information Technology Services: Add \$14.9 million, all from the SGF, for modernization projects;
- Department of Corrections and Correctional Facilities: Add \$6.1 million, all from the SGF, to expand the Lansing and Winfield correctional facilities to provide substance abuse treatment and nursing care;
- Kansas Department of Wildlife, Parks and Tourism: Add \$2.0 million, all from the SGF, for state park flood repairs;
- Insurance Department: Add \$976,666, all from the SGF, for the refund of estimated privilege fees paid by Amerigroup Kansas;
- Department for Children and Families: Add \$3.6 million, including \$1.3 million from the SGF, for adoption assistance subsidy expansion; and
- Kansas Board of Regents: Add \$4.5 million, all from the SGF, for the Excel in Career Technical Education Program.

Offsetting decreases in the FY 2020 approved budget include the following:

- \$40.5 million from all funds, including \$32.9 million from the SGF, for school finance consensus estimates;

- \$10.7 million, all from the SGF, for Medicaid non-caseload home and community based services waiver expenditures and \$15.3 million, all from the SGF, for the Human Services Consensus Caseload estimates;
- \$9.8 million, all from the SGF, to lapse appropriations for the Department of Corrections from the State Finance Council, which were not approved for release;
- \$6.3 million, all from the SGF, for inmate outsourcing; and
- \$42.3 million from the Evidence-based Juvenile Programs Fund in the Department of Corrections.

Language adjustments in the FY 2020 approved budget include the following:

- Department of Commerce: Add language to extend the sunset on the Sales Tax and Revenue (STAR) Bonds program through June 30, 2021;
- Department for Children and Families:
 - Add language to allow the Secretary for Children and Families to request a waiver from the U.S. Department of Agriculture for time-limited assistance provisions under food assistance provisions for able-bodied adults ages 18 through 49 without dependents in the household if the Secretary can establish insufficient jobs in an area using standards not less restrictive than standards in federal regulations in effect on January 1, 2020, in FY 2020; and
 - Add language to amend work participation requirements for Temporary Assistance for Needy Families cash assistance program to include in-home parenting skills training for a single parent with a child between three months and one year of age in FY 2020.

Summary of FY 2021 Approved Budget

The FY 2021 approved budget totals \$19.9 billion, including \$8.0 billion from the SGF. The budget is an all funds increase of \$1.2 billion, or 6.4 percent, and a SGF increase of \$192.9 million, or 2.5 percent, above the FY 2020 approved budget. The approved budget includes FTE positions totaling 40,720.

Major adjustments to the FY 2021 approved budget above the FY 2020 approved budget include the following:

- Department of Education: Add \$135.8 million, including \$118.7 million from the SGF, for the State's new estimates of expenditures for state aid to K-12 schools, which is primarily due to the Base Aid for Student Excellence increasing from \$4,436 to \$4,569;
- Kansas Department of Health and Environment (KDHE) – Division of Health: Add \$1.0 billion, including \$58.1 million from the SGF, to:

- Add \$562.5 million, including \$17.5 million from the SGF, for Medicaid expansion:
 - Add language prohibiting the expansion of the Kansas Medicaid program without the express consent of the Legislature; and
 - Add language transferring the \$17.5 million allocated for Medicaid expansion to the Coronavirus Prevention Fund of the State Finance Council if Medicaid expansion is not enacted into law;
- Add \$431.0 million, including \$37.2 million from the SGF, for Medicaid regular caseloads, including:
 - Adopt the fall 2019 Human Services Consensus Caseload estimates; and
 - Add \$3.0 million, including \$1.2 million from the SGF, to increase Medicaid dental reimbursement rates under KanCare;
- Add \$2.0 million, all from the SGF, for primary health projects for community-based primary care grants;
- Add \$2.0 million, all from the SGF, for the Infant and Toddler Program (tiny-k);
- Add \$900,000, all from the SGF, to increase funds available to local health departments using the statutory formula distribution contained in KSA 65-242:
 - Add language to raise the minimum provided to each of the 100 local health departments under the statutory formula distribution contained in KSA 65-242 to \$12,000;
- Regents and Post-Secondary Education Institutions: An all funds reduction of \$16.3 million and an SGF increase of \$21.7 million including:
 - \$11.9 million, all from the SGF, for distribution to State universities;
 - \$8.5 million, all from the SGF, for Excel in Career Technical Education;
 - \$5.0 million, all from the SGF, for the Cancer Center Research Fund, for FY 2021;
 - \$2.5 million, all from the SGF, for the Comprehensive Grant program with language that the new funds require a 1:1 match; and
 - Add language to allow Wichita State University bonding authority of \$49.0 million to purchase The Flats and The Suites, privately owned student housing units, upon approval from the Board of Regents;
- Department of Corrections and Correctional Facilities: Add \$19.1 million, including \$15.9 million from the SGF:
 - \$7.7 million, all from the SGF, to increase the number of correctional officers in Kansas correctional facilities and expand the Lansing and Winfield correctional facilities to provide substance abuse treatment and nursing care; and

- \$8.3 million, all from the SGF, for a full-year lease payment on the Lansing Correctional Facility;
- Department for Children and Families: Add \$12.1 million, including \$13.7 million from the SGF, for enhancement initiatives in the Department for Children and Families and Human Services Consensus Caseload adjustments, including:
 - \$1.6 million, including \$484,529 from the SGF, for adoption assistance subsidy expansion;
 - \$13.7 million, including \$9.0 million from the SGF, to adopt the fall 2019 Human Services Consensus Caseload estimates;
 - \$4.0 million, including \$2.0 million from the SGF, to develop a new Comprehensive Child Welfare System; and
 - \$7.5 million, including \$3.8 million from the SGF, to increase Family First prevention staff;
- Department for Aging and Disability Services: Add \$60.1 million, including \$34.8 million from the SGF, to:
 - Add \$5.6 million, including \$21.2 million from the SGF, for Human Services Consensus Caseloads estimates expenditures, including:
 - Add \$41.0 million, including \$35.5 million from the SGF, for the fall 2019 Human Services Consensus Caseloads estimate;
 - Delete \$42.0 million, including \$17.0 million from the SGF, to not rebase the reimbursement rate for Medicaid nursing facilities; and
 - Add \$6.6 million, including \$2.7 million from the SGF, to provide a 1.0 percent increase in the reimbursement rate for Medicaid nursing facilities;
 - Add \$22.1 million, including \$9.0 million from the SGF, to provide a 5.0 percent increase in the provider reimbursement rates for the Medicaid Home and Community Based Services Intellectual/Developmental Disability waiver;
 - Add \$6.4 million, including \$2.6 million from the SGF, for the Medicaid Home and Community Based Services Technology Assisted waiver. Add language directing this funding to be used to increase the provider reimbursement rates for the specialized medical care from the current rate of \$31.55 per hour to \$37.00 per hour for in-home Medicaid Care registered nurse/licensed practical nurse nursing services for this waiver;
 - Add \$5.0 million, all from the SGF, for regional mental health inpatient beds;
 - Add \$4.0 million, all from the SGF, for eight acute care psychiatric beds for youth in Hays;
 - Add \$3.0 million, all from the SGF, for Senior Care Act services;
 - Add \$2.0 million, all from the SGF, to increase grant funding for community mental health centers;

- Add \$1.0 million, all from the SGF, for a psychiatric residential treatment facility pilot program at Ember Hope in Newton;
- Add \$750,000, all from the SGF, for the Douglas County Community Crisis Center;
- Add \$5.3 million, all from the State Institutions Building Fund, to remodel the Biddle Building at Osawatomie State Hospital in preparation of the agency ending the moratorium on voluntary admissions and to certify additional beds for federal reimbursements; and
- Add \$2.7 million, all from the State Institutions Building Fund, for infrastructure costs and the continued support and maintenance for an electronic records and patient management system for the state hospitals;
- Kansas Department of Transportation: Add \$80.8 million, all from special revenue funds, for the 11th year of the Transportation Works for Kansas Program;
- Department of Agriculture and Kansas Water Office: Add \$2.4 million, mostly from the State Water Plan Fund, for a variety of water projects including cost-share payments for conservation practices (\$250,000), streambank stabilization (\$250,000), watershed dams (\$200,000), Conservation Reserve Enhancement Program (\$297,699), water injection dredging (\$660,000), watershed conservation practices (\$300,000), and dewatering in Haysville (\$200,000); and
- Department of Administration: Add language capping municipal bond interest rates at the daily yield of the 10-year treasury bonds for FY 2021, plus 6.0 percent on bonds excluded from federal gross income and 7.0 percent on bonds included in federal gross income.

Revenue Adjustments – FY 2021

- Kansas Water Office: Transfer \$2.0 million from the SGF to the State Water Plan Fund, bringing the total transfer amount to \$6.0 million;
- State Highway Fund: Delete \$98.1 million from the transfer from the State Highway Fund to the SGF, which reduces the transfer to \$133.7 million; and
- Extend ongoing SGF transfers:
 - Transfer \$16.2 million from the Economic Development Initiatives Fund to the SGF; and
 - Transfer \$2.8 million from the Expanded Lottery Act Revenues Fund to the SGF.

The following summary table reflects all changes to SGF receipts and SGF expenditures.

STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

SB 66 – Conference Profile (Dollars in Millions)

	Actual FY 2019	SB 66 FY 2020	SB 66 FY 2021
Beginning Balance	\$ 761.7	\$ 1,105.1	\$ 447.5
Receipts (November 2019 Consensus)	7,376.2	7,652.1	7,100.1
Governor’s Revenue Adjustments	0.0	(399.6)	124.6
Legislative Receipt Adjustments	0.0	400.4	(130.6)
Adjusted Receipts	7,376.2	7,652.9	7,828.2
Total Available	\$ 8,137.9	\$ 8,758.0	\$ 8,755.0
Less Expenditures	7,032.8	7,831.1	8,024.1
Ending Balance	\$ 1,105.1	\$ 926.8	\$ 730.9
Ending Balance as a % of Expenditures	15.7 %	11.8 %	9.1 %

Note: The Department of Corrections retains \$45.0 million in expenditure authority from the Evidence-based Juvenile Programs Fund in FY 2021 that the Governor has recommended it not exercise.

Nursing Facility Quality Care Assessment and the Healthcare Access Improvement Program; HB 2168

HB 2168 establishes a sunset date of July 1, 2030, for the Nursing Facility Quality Care Assessment and amends law concerning the hospital provider assessment known as the Health Care Access Improvement Program (HCAIP). [*Note:* The annual assessment rate was subsequently updated in HB 2246.]

The bill makes the following changes for the hospital provider assessment:

- The annual hospital provider assessment rate increases from 1.83 percent to 3.0 percent;
- Taxable revenue expands to include outpatient net operating revenue;
- The hospital provider assessment is based on the net operating revenue for the hospital’s fiscal year three fiscal years prior to the assessment year; and
- Distributions of hospital provider assessment revenues generated from health maintenance organizations are no longer included in the assessment law.

In addition, the selection criteria of the Healthcare Access Improvement Panel (Panel), which administers HCAIP, is modified, as follows:

- The two members appointed by the Kansas Medical Society will no longer be required to be licensed to practice medicine or surgery;
- A member will be appointed by the Community Care Network of Kansas instead of by the Kansas Association for the Medically Underserved; and
- The membership of the Panel is expanded to include one member appointed by the President of the Senate, one member appointed by the Speaker of the House of Representatives, and one member from the Office of the Medicaid Inspector General, appointed by the Attorney General.

The bill requires all disbursements related to HCAIP be paid from moneys appropriated to the Health Care Access Improvement Fund (Fund) and further provides no State General Fund appropriations will be used to supplement the Fund. On July 1 of each year, the Kansas Department of Health and Environment (KDHE), with the approval of the Panel, will adjust the disbursement process to ensure the amount of disbursements does not exceed appropriations to the Fund. In addition, the bill requires the annual report created by the Panel to provide evidence that the disbursements for HCAIP have been made in accordance with disbursement provisions of the bill and are budget neutral to the SGF.

The bill requires KDHE to submit any information necessary to the federal Centers for Medicare and Medicaid Services to attempt to gain approval to implement the changes directed by the bill and also requires the Secretary of Health and Environment to certify such approval and publish notice of approval in the *Kansas Register*.

STATE GOVERNMENT

Reorganization of the State Employee Health Plan; ERO 45

ERO 45 moves the State Employee Health Plan (SEHP) and the State Self Insurance Fund (SSIF) from the Kansas Department of Health and Environment (KDHE) to the Kansas Department of Administration (KDOA). The SEHP administers the Kansas employee health insurance benefit program and supports the Kansas Health Care Commission, which sets rates and programs for state employee health insurance benefits. The SSIF administers workers compensation claims for state employees when they are injured on the job working for the State.

ERO 45 establishes the Division of the State Employee Health Benefits Plan (Division) within the KDOA, transferring to KDOA all powers, duties, and functions of the KDHE staff currently administering the SEHP and SSIF.

The head of the Division established by ERO 45 is the Director of the State Employee Health Benefits Plan (Director), who is appointed by and serves at the pleasure of the Secretary of Administration and is an unclassified employee under the Kansas Civil Service Act. Section 1(a) of ERO 45 requires the Director's salary to be approved by the Governor. All officers and employees involved with the administration and support of the SEHP and SSIF within the KDHE will transfer to the KDOA. State employee benefits, including retirement benefits, leave balances, and rights that had accrued, or vested, prior to the ERO's effective date will transfer along with those officers and employees. Transferred employees who were classified will retain their classified status.

With respect to related fund and account balances, ERO 45 transfers all relevant funds within the State Treasury to the KDOA for the Division, to be used for the purpose for which the appropriation was originally made. The Division also succeeds to all relevant property, property rights, contracts, and records, and the Governor will be the final authority in resolving any conflict surrounding this succession. ERO 45 also states no lawsuits, proceedings, or criminal actions that have begun or have the potential to begin by or against any state agency or program are abated by the reorganization taking place under ERO 45.

ERO 45 also establishes the State Workplace Health and Safety Program within the KDOA's SSIF program. The Secretary of Administration is to implement, and the Kansas Department of Labor Division of Industrial Health and Safety is to assist with, a program to include, but not be limited to, these activities: workplace health and safety hazard surveys in all state agencies, including on-site interviews with employees; workplace health and safety hazard prevention services, including inspection and consultation services; procedures for identifying and controlling workplace hazards; development and dissemination of health and safety informational materials, plans, rules, and work procedures; and training for supervisors and employees in healthful and safe work practices.

Article 1, § 6 of the *Kansas Constitution* provides that an ERO becomes effective on the July 1 following its transmittal to the Legislature unless, within 60 calendar days and before the adjournment of the Legislative Session, either the Senate or the House of Representatives adopts a resolution disapproving the ERO. ERO 45 was not considered prior to the March 30 deadline and is therefore adopted, going into effect on July 1, 2020.

Agency Duties—Insurance Department; University of Kansas Medical Center; Department of Health and Environment; Wichita State University; HB 2246

HB 2246 amends and enacts new law pertaining to the oversight, regulation, programming, and authority of various state agencies. Among the agencies and programs addressed by the bill are:

- The Commissioner of Insurance and Kansas Insurance Department (amendments and new supplemental law, including on appointment of the Securities Commissioner);
- Kansas Department of Health and Environment (the Health Care Access Improvement Program);
- The University of Kansas Medical Center (Cancer Center Research Account); and
- Wichita State University (bonding authority).

Commissioner of Insurance and Kansas Insurance Department Regulation

The bill amends and enacts law supplemental to the Insurance Code and amends law governing the appointment of the Securities Commissioner by the Commissioner of Insurance (Commissioner). Among these changes, the bill:

- Creates law and amends law to allow a reciprocal to convert to a Kansas mutual insurance company under certain circumstances;
- Amends penalty provisions governing excess lines coverage and taxation;
- Amends the effective date specified for the risk-based capital (RBC) instructions for property and casualty companies and for life insurance companies;
- Amends provisions of the Long-term Care Insurance Act to allow regulation of long-term care (LTC) policies providing coverage for less than 12 months; and
- Amends law governing the Office of the Securities Commissioner and the appointment and removal authority assigned to the Commissioner of Insurance.

Reciprocals and Conversion to Mutual Insurance Companies

The bill creates law and amends law in the Insurance Code (Chapter 40 of *Kansas Statutes Annotated*) to allow a reciprocal to convert to a Kansas mutual insurance company in accordance with terms of a conversion plan filed with and approved by the Commissioner. A reciprocal, as defined in KSA 40-1623, is an aggregation of subscribers under a common name.

The bill permits the Commissioner to establish reasonable requirements and procedures for the submission and approval of a conversion plan. The bill outlines items that must be included in the conversion plan:

- A provision for converting the existing subscriber interests in the reciprocal into policyholder interests in the resulting mutual insurance company, so that each policyholder's interest in the mutual insurance company is fairly proportionate to such subscriber's interest in the reciprocal;
- A provision amending the existing subscriber's agreement to articles of incorporation that comply with provisions in the Insurance Code governing the authority for formation, votes of members, and charter filing requirements for mutual insurance companies;
- A copy of the proposed articles of incorporation;
- Proof of the approval or adoption of the conversion plan by not less than two-thirds of the subscriber interests entitled to vote;
- A transition plan for the change of governance of the reciprocal from an attorney-in-fact to a board of directors and officers that is governed by Kansas law applicable to mutual insurance companies; and
- Any other information required by the Commissioner.

The bill provides the Commissioner shall approve the conversion plan if the Commissioner finds that the proposed conversion will not:

- Be detrimental to the interests of the reciprocal's subscribers;
- Be detrimental to the interests of the state of Kansas; and
- Render the insurer incapable of fulfilling its contractual obligations.

Upon the approval of a conversion plan, the Commissioner is required to issue a new or amended certificate of authority, which will be deemed the final act of conversion; at such time, the reciprocal concurrently will become a mutual insurance company.

Mutual insurance companies created under the provisions of this bill are required to comply with all statutes in the Insurance Code, including Articles 12 and 40, that are applicable to mutual insurance companies.

The bill amends law allowing a mutual insurance company opting to convert to a reciprocal to request a hearing within 15 days of the Commissioner's approval or denial of the conversion plan, under the Kansas Administrative Procedure Act, to grant this same ability to a reciprocal seeking to convert to a mutual insurance company.

The law created in the bill is made supplemental to Article 16 in Chapter 40 (Insurance Code), which governs reciprocals or interinsurance contracts.

Excess Lines Coverage

The bill amends provisions in the Insurance Code governing excess lines coverage and taxation to allow, rather than require, the Commissioner to collect a penalty from any licensee or individual who fails, refuses, or neglects to transmit the required affidavit or statement for surplus lines insurance or fails to pay the imposed tax for surplus lines insurance. The bill also changes the amount of the penalty from double the amount of tax to up to double the amount.

Risk-based Capital (RBC) Instructions

The bill amends the effective date specified in the Insurance Code for the RBC instructions promulgated by the National Association of Insurance Commissioners for property and casualty companies and for life insurance companies. The bill updates the effective date on the RBC instructions from December 31, 2018, to December 31, 2019.

Long-term Care Insurance Act—Duration of Policies

The bill amends provisions of the Long-term Care Insurance Act to modify the definition of “long-term care insurance” and to allow the Kansas Insurance Department (Department) to regulate LTC policies that provide coverage for less than 12 months. Prior law required LTC policies to have a duration of at least 12 consecutive months.

Appointment and Removal of the Securities Commissioner

The bill amends law governing the Office of the Securities Commissioner and the appointment and removal authority assigned to the Commissioner of Insurance.

Under prior law, the Insurance Commissioner was permitted to remove the Securities Commissioner for official misconduct. The bill removes this authority and instead requires the Securities Commissioner to serve at the pleasure of the Insurance Commissioner. Under continuing law, the Securities Commissioner would be subject to the confirmation of the Senate.

The bill removes provisions pertaining to the initial appointment of the Securities Commissioner by the Insurance Commissioner. The bill also removes provisions that would have required the Securities Commissioner to serve, subject to Senate confirmation, a four-year term to run concurrently with the term of the Insurance Commissioner.

[*Note:* Law enacted in 2017 consolidated the Office of the Securities Commissioner, a stand-alone agency, into the Department as a division within the Department and changed the appointment authority for the Securities Commissioner from the Governor to the Insurance Commissioner.]

University of Kansas Medical Center—Cancer Center Research Grant

The bill creates in the State Treasury the Cancer Research and Public Information Trust Fund to enhance research at the University of Kansas Cancer Center. It creates a transfer of \$10.0 million from the State General Fund to the Cancer Research and Public Information Trust Fund of the University of Kansas Medical Center (KUMC) beginning in fiscal year (FY) 2022. The bill requires the Director of KUMC to submit a report to the Legislature detailing the manner that such appropriated moneys are to be used to enhance cancer research, cancer education, and outreach programs.

Kansas Department of Health and Environment—Healthcare Access Improvement Program

The bill amends law concerning the hospital provider assessment known as the Health Care Access Improvement Program (HCAIP). The bill makes the following changes to the hospital provider assessment:

- The annual assessment on services imposed on each provider will be an amount not less than 1.83 percent of each hospital's net inpatient operating revenue and not greater than 3.0 percent of each hospital's net inpatient and outpatient operating revenue. This will apply to hospitals with a complete 12-month fiscal year; and
- The amount of the annual provider tax will be determined by the healthcare access improvement panel in consultation with the Kansas Department of Health and Environment.

Wichita State University—Bonding Authority

The bill provides Wichita State University authority to secure bonds from the Kansas Development Finance Authority for up to \$25.0 million through FY 2021 for a new business school.

Sale of Surplus State Property; HB 2595

HB 2595 removes the 30-day waiting period before offering surplus property for sale to the general public. Current law allows the Secretary of Administration, through the Kansas Surplus Property Program, to sell state surplus property to the general public only after the property has been offered to qualified individuals and entities for at least 30 days.

State of Disaster Emergency Declaration; HCR 5025

HCR 5025 extends the Governor's March 12, 2020, state of disaster emergency declaration for the state regarding novel coronavirus disease (COVID-19) through May 1, 2020, subject to additional extensions by concurrent resolution of the Legislature. [*Note: Special Session HB 2016 ratified and continued from March 12, 2020, through September 15, 2020, the COVID-19-related state of disaster emergency declared by the Governor.*]

The resolution provides that, if the Legislature is not in session, the Governor could apply to the State Finance Council (Council) to extend the state of disaster emergency declaration, and the Council could authorize one additional extension of the declaration for a specified period not to exceed 30 days, by a majority vote of the legislative members of the Council. Following such Council action, the Legislative Coordinating Council (LCC), representing the Legislature when the Legislature is not in session, is:

- Authorized to ratify a declaration, terminate a state of disaster emergency, revoke an order or proclamation, or assume any other power granted the Legislature in the statutes governing state of disaster emergency declarations;
- Authorized to grant additional extensions of such state of disaster emergency, for specified periods not to exceed 30 days each, by a majority vote of five members;
- Required to meet at least once every 30 days to review the state of disaster emergency, consider any orders or proclamations issued since the previous LCC meeting, and consider whether such orders or proclamations, if any, are an exercise of any power listed in KSA 2019 Supp. 48-925(c)(2), (c)(4), (c)(7), (c)(8), or (c)(11); and
- Authorized to review and revoke all orders and proclamations issued by the Governor pursuant to KSA 2019 Supp. 48-925(b). The chairperson of the LCC, in consultation with the Attorney General, Adjutant General, and any other parties the chairperson deems necessary, shall determine if an order or proclamation of a power listed in KSA 48-925(c)(2), (c)(4), (c)(7), (c)(8), or (c)(11) has been issued. If the chairperson determines the order or proclamation is an exercise of such power, the LCC shall meet to consider such order or proclamation within three calendar days and may revoke such order or proclamation at the meeting.

The resolution further states, for the purposes of the ratification, the Governor shall not have the power or authority pursuant to either KSA 2019 Supp. 48-925(c)(8), or any other executive authority, to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing, or transportation of firearms or ammunition.

[*Note:* The specific powers referenced by statutory subsection in the resolution are as follows:

- Utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster [KSA 2019 Supp. 48-925(c)(2)];
- Subject to any applicable requirements for compensation under current law, commandeer or utilize any private property if the Governor finds such action necessary to cope with the disaster [KSA 2019 Supp. 48-925(c)(4)];
- Control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area, and the occupancy by persons and animals of premises therein [KSA 2019 Supp. 48-925(c)(7)];

- Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles [KSA 2019 Supp. 48-925(c)(8)]; and
- Perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population [KSA 2019 Supp. 48-925(c)(11)].]

Disapproval of ERO No. 46, Kansas Energy Office; HR 6031

HR 6031 disapproves Executive Reorganization Order (ERO) No. 46, which was issued by the Governor on January 30, 2020.

ERO 46 would have established the Kansas Energy Office (Energy Office) as an independent entity, effective July 1, 2020, rather than continue it within the Kansas Corporation Commission (KCC). The ERO stated the Energy Office would be under the direction of the Director of the Kansas Energy Office (Director). The Director would have been appointed by the Governor. The ERO would have transferred the balances of all funds and accounts appropriated to the KCC for activities related to the Energy Office from the KCC to the Energy Office.

Disapproval of ERO No. 44, Merging Certain Agencies; HR 6032

HR 6032 disapproves Executive Reorganization Order (ERO) No. 44, which was issued by the Governor on January 30, 2020.

ERO 44 would have merged the Kansas Department for Aging and Disability Services (KDADS), Juvenile Services from the Department of Corrections (DOC) and oversight of the Kansas Juvenile Correctional Complex, and the Department for Children and Families (DCF), and renamed this agency the Kansas Department of Human Services (DHS), effective July 1, 2020.

This merger would have transferred to and imposed upon DHS and the Secretary of Human Services all jurisdiction, powers, functions, and duties from DCF, KDADS, Juvenile Services, and oversight of the Juvenile Correctional Complex, as well as all the jurisdiction, powers, functions, and duties for which these agencies are serving as the operating agency or grants manager for another agency.

The ERO stated whenever the secretaries of, or names of, these agencies, or predecessor agencies—the Department of Social and Rehabilitation Services, Department on Aging, and the Juvenile Justice Authority—are referred to or designated by any statute, rule and regulation, contract, or other document, such reference should be deemed to apply to DHS. The ERO further stated DHS would be the successor to the powers, duties, and functions of these agencies, and any potential remaining rights, titles, or interest belonging to the Department of Social and Rehabilitation Services, Department on Aging, and Juvenile Justice Authority in real property. Actions performed by DHS would have had the same force and effect as if performed by the above entities, in which the same powers, duties, and functions were vested prior to July 1, 2020.

The ERO would have transferred to DHS from DCF, KDADS, and DOC the following: rules and regulations authority; fees, funds, grant funds, advisory group funds, loan repayment

funds, and account balances; property and property rights; liability; and liability for accrued compensation or salaries of personnel, including officers and employees, except the right, title, and interest of Larned Juvenile Correctional Facility and funds related to its maintenance and management.

TRANSPORTATION AND MOTOR VEHICLES

Eisenhower Legacy Transportation Plan; House Sub. for SB 173

House Sub. for SB 173 authorizes and directs the Secretary of Transportation (Secretary) to initiate a program to be called the Eisenhower Legacy Transportation Program (Program). The bill specifies the types of projects authorized, addresses local funding and new and continuing grant programs, authorizes alternative procurement methods under certain circumstances, increases city connecting links payments, adds reporting requirements, requires at least \$8 million to be spent in each county through fiscal year (FY) 2030, states 16.154 percent of sales tax shall be levied for the State Highway Fund (SHF), and makes additional changes to law.

Eisenhower Legacy Transportation Program

The bill states the Program shall provide for the construction, improvement, reconstruction, and maintenance of the state highway system and provide for selection of projects that will allow for the flexibility to meet emerging and economic needs. The bill states program expenditures may include, but not be limited to, preservation, preservation plus, expansion and economic opportunity, and modernization projects, described below:

- ***Preservation projects.*** The bill requires the Secretary to establish targets for state highway system condition that reflect reasonable, realistic expectations and use reasonable, sound, and accepted methods to determine the annual preservation investment needed to achieve such state targets and long-term cost effectiveness. The bill states it is the intent of the Legislature that the Secretary spend from the SHF an amount equal to or exceeding ten times the determined average annual preservation investment prior to completion of the program. The bill requires the Secretary to manage cash-flow and project lettings to provide reasonable assurance that preservation will be fully funded each year. For this purpose, the bill specifies “preservation projects” refers to maintenance, repairs, or replacement of existing infrastructure. The bill authorizes federal funding from grants or stimulus to be used for preservation projects;
- ***Preservation plus projects.*** The bill authorizes adding safety or technology elements in a preservation plus project. The bill states such elements may include, but not be limited to, adding paved shoulders, passing lanes, traffic signals, or intelligent transportation system elements or laying broadband fiber or the conduit for broadband fiber. The bill states it is the intent of the Legislature that the Secretary has the authority to enhance preservation plus projects by adding safety or technology improvements, or both. The bill authorizes federal funding from grants or stimulus to be used for preservation plus projects;
- ***Expansion and economic opportunity projects.*** The bill authorizes expansion and economic opportunity projects, or projects that improve access, relieve congestion, and enhance economic development opportunities, to be selected using criteria determined by the Kansas Department of Transportation (KDOT) that include, but are not limited to, engineering and traffic data, local consultation, geographic distribution, and an economic impact analysis evaluation; and

- *Modernization projects.* The bill authorizes modernization projects to improve safety, condition, or service of the highway system (e.g., widening lanes or shoulders and building rail grade separations). Those projects are to be selected using KDOT criteria to include, but not be limited to, engineering data, local consultation, and geographic distribution.

The bill requires KDOT to develop criteria for the incorporation of practical improvements into project designs.

Previously Selected Projects

The bill requires the Program to provide for the completion of modernization and expansion projects selected for construction under the Transportation Works for Kansas Program (T-Works) [KSA 68-2314b] and that those projects be let prior to July 1, 2023. The bill requires the Secretary to let to construction contract at least one phase of each remaining T-Works project before any modernization or expansion project, or both, under the Program is let to construction. The bill allows completing a reconstruction of an interchange at I-135 and 36th Street in Harvey County to be optional. If that project is not constructed, the bill requires the estimated construction costs for that project to be used on other construction projects in KDOT's south central district.

Local Programs

The bill requires the Program to provide for assistance, including credit and credit enhancements, to cities and counties in meeting their responsibilities for transportation improvements. The bill states such programs may use criteria developed by KDOT for the incorporation of practical improvements into project designs. The bill authorizes expenditures for purposes including, but not limited to, the following:

- Apportionment of the Special City and County Highway Fund to assist with city and county responsibilities for roads and bridges not on the state highway system;
- Sharing federal aid with cities and counties to assist with their responsibilities for roads and bridges not on the state highway system;
- Programs to assist cities with city connecting links and local partnership programs to resurface or geometrically improve city connecting links or to promote economic development;
- Programs similar to KDOT's local bridge improvement program, to replace or repair bridges not on the state highway system;
- Programs to assist cities and counties with railroad crossings of roads not on the state highway system; or
- Programs that allow local governments to exchange federal aid funds for state funds.

Transportation Other than Construction of Roads and Bridges

The bill requires the Program to provide for the following types of programs in accordance with new or continuing law:

- A railroad program for the preservation and revitalization of rail service in the state;
- An aviation program to provide assistance for planning, constructing, reconstructing, or rehabilitating the facilities of public use general aviation airports;
- Public transit programs to aid elderly persons, persons with disabilities, and the general public;
- A transportation technology program to provide for multimodal transportation-related projects that support innovative technology; and
- A multimodal program to provide improvement assistance for bike facilities, pedestrian facilities, or other transportation-sensitive economic opportunities on a local or a regional basis.

Project Delivery

The bill states the program shall allow the Secretary to award certain state highway system projects using delivery procurement methods other than design-bid-build. [*Note:* Alternative project delivery is further discussed below.]

Broadband

The bill states the Program shall provide for a broadband infrastructure construction program. [*Note:* Broadband construction is further discussed below.]

Uses of Certain Revenues

The bill requires SHF revenues, which include motor fuel taxes, vehicle registration fees, sales and compensating use taxes, and eligible federal aid, to be used in the following order of priority:

- To pay bond obligations;
- To pay for agency operations;
- To make city connecting link payments;
- To pay for needed preservation projects; and
- Pursuant to other purposes and authority given to the Secretary.

The bill requires new bonds issued for the purposes of the Program to be paid using all SHF revenues, including sales or compensating use tax revenues.

Project Selection

The bill requires the Secretary to determine the projects to be selected, using KDOT selection methods and criteria. The bill states consideration may be given to additional criteria that could include projects that remove transportation infrastructure from the state highway system, identify priority corridors, include local monetary participation, or reduce project size.

The bill states legislative intent for the Secretary to develop a metric-driven process that determines a reasonable and fair minimum amount of SHF moneys to be spent on new modernization and expansion projects in each KDOT district over the duration of the Program. The bill requires the process for determining the minimum amount for each district to be subject to the following limits:

- The minimum amount for each district added together must total at least 50 percent of the estimated cost of constructing all modernization and expansion projects let to contract in the Program;
- If the estimated cost of constructing all Program modernization and expansion projects increases or decreases by more than 10 percent, the minimum amount must be adjusted;
- At least 40 percent of the minimum amount or adjusted minimum amount for each district must be let to construction contract by the end of year 5 of the Program and 100 percent of the minimum amount by year 10; and
- T-Works projects are not to be considered when determining the minimum amounts.

The bill requires the Secretary to select projects for development every two years, but does not require the Secretary to construct every project selected for development. The bill requires project selection after consultation with local jurisdictions.

The bill states it is the intent of the Legislature that the Secretary take the actions necessary to have transportation improvement projects ready to let to construction as cash-flow management allows.

Long-range Planning

The bill requires the Secretary to develop a long-range transportation plan before June 30, 2030, to include recommendations for a new transportation program for the state. The bill requires the plan to examine, but not be limited to, project selection criteria and selection methods used in the Program, transportation funding sources, and Program project categories. The bill states the plan shall be developed after consultation with the Governor and state and local elected officials.

Innovative Technologies Grants

The bill authorizes the Secretary to participate in or make grants for projects to plan, assess, and field new capabilities and innovative technologies for modes of transportation including, but not limited to, aviation and highway transportation. The bill states the new capabilities should represent increased efficiency for state operations, public cost savings, increased safety, or economic development.

The bill establishes the Transportation Technology Development Fund, which the bill requires to be used to provide assistance with the planning, assessment, and fielding of new capabilities for all modes of transportation including, but not limited to, aviation and highway transportation. Expenditures from this fund are to be made in accordance with the provisions of appropriations acts. The bill states grants made by the Secretary from this fund will be upon such terms and conditions as the Secretary deems appropriate.

The bill requires the Director of Accounts and Reports to transfer \$2.0 million from the SHF to the Transportation Technology Development Fund on July 1, 2020, and each July 1 thereafter, through July 1, 2030. The Secretary is authorized to transfer additional moneys between the Transportation Technology Development Fund and the SHF.

Broadband Grants

The bill authorizes the Secretary, working jointly with the Office of Broadband Development within the Department of Commerce, to make grants for construction projects that expand and improve broadband service in Kansas. The bill requires grants made by the Secretary to reimburse grant recipients for up to 50 percent of actual construction costs in expanding and improving broadband service. Such grant reimbursements will be upon the terms and conditions the Secretary deems appropriate, in coordination with the Secretary of Commerce.

The bill establishes the Broadband Infrastructure Construction Grant Fund, to be used to provide grants for the expansion of broadband service in Kansas. Expenditures from this fund will be made in accordance with the provisions of appropriations acts. The bill requires the Director of Accounts and Reports to transfer \$5.0 million from the SHF to the Broadband Infrastructure Construction Grant Fund on July 1, 2020, 2021, and 2022. On July 1, 2023, and each July 1 thereafter, through July 1, 2030, the bill requires the transfer to be \$10.0 million. The bill authorizes the Secretary to notify the Director of Accounts and Reports to transfer all remaining and unencumbered funds from the Broadband Infrastructure Construction Grant Fund to the SHF at the end of each fiscal year.

Alternative Procurement

The bill authorizes the Secretary to use procurement methods other than a design-bid-build contract to the lowest bidder if certain requirements are met:

- Projects selected for alternative delivery shall not include preservation projects;
- Three projects utilizing toll revenues for construction and maintenance, one every three years, are authorized;

- Not more than 3 percent of moneys spent in the Program can be used on alternative delivery;
- An additional 2 percent is to be available for alternative delivery starting in FY 2023;
- The dollar values of the three projects utilizing toll revenues and projects obtained through federal grants or stimulus are to be excluded when determining these limits;
- The project must cost at least \$100 million; and
- A contract or contracts for alternative delivery projects can include, but will not be limited to, services for preconstruction, design, construction, construction management, maintenance, operation, financing, or a combination thereof.

The bill requires KDOT to develop and utilize criteria for selecting whether alternative delivery or design-bid-build procurement is in the best interest of the state. The bill requires the selection criteria to include, but not be limited to, the need for an accelerated schedule, safety needs, project complexity, opportunity for innovation, and economic development. The bill prohibits any project to be selected for alternative delivery without having been evaluated under the KDOT selection criteria.

The bill requires KDOT to develop and utilize procedures for advertising, receiving, and evaluating proposals; awarding contracts; and administering contracts in its alternative delivery procurement program. The bill specifies procurement procedures in continuing law (on topics including notification, letting to the lowest responsible bidder, negotiations with the contracting firm, and project descriptions) will not apply to alternative delivery projects.

The bill requires the alternative delivery procedures to include the following:

- A two-phase best value competitive selection or contracting process, including a first-phase short list of no more than four proposers identified using a request for qualifications and a second phase of submission of price, technical proposals, or both in response to a request for proposals;
- Advertisement of requests for qualifications in the *Kansas Register* for at least three consecutive weeks;
- Prequalification of contractors by the Secretary in accordance with statutes, regulations, and KDOT procedures governing prequalification and licensing;
- A bond for performance and payment or alternative security guaranteeing contract performance and payment obligations for supplies, materials, and labor; and

- A requirement that firms and key personnel identified in the qualifications phase and scored to determine the short list may not be replaced during the project without KDOT's written approval.

The bill states a contracting entity selected for an alternative delivery project will not be in violation of laws governing technical professions and the contract shall not be void if such contractor obtains professional services by subcontracting with an entity or entities licensed or holding a certificate of authorization to perform professional services in accordance with laws governing technical professions.

The bill states a contracting entity selected for an alternative delivery project that is responsible for preparing or furnishing design plans and specifications, through its own organization or by subcontracting, will be liable for damages arising from design defects in the plans and specifications that result in injury to persons or damage to property occurring after completion of the contract and KDOT acceptance of the project. The bill states that would be the case if and to the extent such injury or damage arises from a failure to exercise the degree of learning and skill ordinarily possessed by a reputable contractor or by a technical professional practicing in Kansas in the same or similar locality and under similar circumstances.

Short Line Rail Improvement Fund

The bill establishes the Short Line Rail Improvement Fund (SLRI Fund) to be administered by the Secretary. The SLRI Fund will be subject to appropriations acts and expenditures will require the written approval of the Secretary. The bill requires expenditures from the SLRI Fund to be made for a qualified railroad track maintenance expenditure constructed by an eligible entity and to be matched on a basis of 70 percent state moneys to 30 percent eligible entity moneys.

The bill requires transfer of \$5.0 million from the SHF to the SLRI Fund on July 1, 2020, 2021, and 2022.

The bill defines an "eligible entity" as a class II or class III railroad as defined in federal regulations in effect as of January 1, 2020, or any owner or lessee industry track located on or adjacent to a class II or class III railroad in Kansas. The bill defines "qualified railroad track maintenance expenditure" as gross expenditures for maintenance, reconstruction, or replacement of railroad track and related structures in Kansas, if the track was owned or leased by an eligible entity as of January 1, 2020.

Driver's Education Scholarship Grant Program

The bill directs the Secretary to develop a driver's education scholarship grant program to assist qualified individuals in becoming safe drivers. The bill allows any entity that desires to provide a driver's education program to submit an application for a competitive grant for an amount to be determined by the Secretary for the purpose of paying the costs of scholarships to attend driver's education. Amounts available will be subject to appropriations. The bill limits a scholarship for a qualified individual to not more than \$200, to be awarded upon completion of the driver's education program. The bill authorizes the Secretary to adopt rules and regulations to establish criteria and for other matters necessary for this program.

The bill defines a qualified individual for this purpose as a resident of Kansas younger than age 30 whose household income is positive and not more than 200 percent of the most recent federal poverty level published by the U.S. Department of Health and Human Services for the tax year prior to the year in which the application is submitted.

The bill requires the Secretary to provide a report on this program to the House Committees on Appropriations and Transportation and the Senate Committees on Ways and Means and Transportation on or before January 9, 2023.

The provisions related to the driver's education scholarship grant program will expire June 30, 2023.

City Connecting Links

The bill increases from \$3,000 to \$5,000 per year per lane per mile the amount the Secretary is required to annually distribute to cities for the maintenance of streets and highways in cities the Secretary has designated as city connecting links. Continuing law authorizes the Secretary to maintain such streets and pay for that maintenance from the SHF with the consent of the city governing body.

The bill authorizes the remainder of the SHF to be spent for any purpose specified in the new section defining the Program.

KDOT Annual Report

The bill adds requirements for the written report required under continuing law to be provided to the Governor and each member of the Legislature by the tenth day of the Legislative Session, to require the report:

- Be posted on the KDOT official website and require KDOT to notify all persons or entities who have requested notification of the posting;
- Include annual expenditures from and more detailed information about:
 - Anticipated annual payouts of construction projects already under contract and any proposed construction projects for the next three fiscal years, listing preservation projects separately from modernization and expansion projects;
 - Proposed construction projects to be let to contract in the current fiscal year and anticipated annual payouts for the next three fiscal years for those projects;
 - Anticipated expenditures for the next three fiscal years on remaining agency debt service, programs, and operations; and
 - Include a comparison of annual revenue expected into the SHF, including ending balance carryovers, for the next three fiscal years;
- For any Program construction project that is more than \$5 million, an explanation of all initial bids submitted and the actual final cost of construction for that project;

- Include all revenue available for the SHF, including, but not limited to, the SHF balance from the previous year, motor fuel taxes, registration fees, sales and compensating use taxes, and bond proceeds;
- Include all committed expenditures identified by program (e.g., debt service payments, agency operations, aviation, project development costs) and construction payouts by program category (i.e., preservation, modernization, and expansion);
- Include a report of projects that have been let but not paid out and how those projects have been identified to achieve state highway system condition targets; and
- Include a detailed explanation of the methods or criteria used in selecting projects under Program highway or local programs, including an explanation of the amounts expended and projects selected for construction or development and when and where the next local consults are to take place.

For the report due in 2021, the bill requires the report to include a detailed explanation of the methods or criteria used in selecting projects under T-Works and in the awarding of assistance to cities, counties, or other transportation providers and specific recommendations for any statutory changes necessary to successfully complete T-Works or for efficient and effective operation of KDOT.

The bill adds the Transportation Technology Development Fund and the Broadband Infrastructure Construction Grant Fund created by the bill to the funds about which allocation and expenditure information is required in the annual report. The bill requires information about grants under those new funds and on funding shifts between the SHF and the Coordinated Public Transportation Assistance Fund, the Rail Service Improvement Fund, the Public Use General Aviation Airport Development Fund, the Transportation Technology Development Fund, and the Broadband Infrastructure Construction Grant Fund.

The bill requires the annual report to include information concerning the condition and performance of the state highway system.

“\$8 Million Promise”

The bill requires the Secretary to expend or commit to expend at least \$8 million in each county from the revenue provided under the provisions of the Program from July 1, 2020, through June 30, 2030.

Changes to Fund Transfers and Balances

The bill authorizes the Secretary to transfer moneys in addition to the \$11.0 million required each year from the SHF to the Coordinated Public Transportation Assistance Fund. The bill also authorizes the Secretary to transfer moneys from the Coordinated Public Transportation Assistance Fund to the SHF. The bill requires the amount remaining in the fund and the amount spent or dedicated for grants or projects for public transportation in each fiscal year to be not less than \$11 million.

The bill requires the amount remaining in the Rail Service Improvement Fund and the amount spent or dedicated for loans or grants in each fiscal year to be not less than \$5 million. Under continuing law, \$5.0 million is to be transferred each July 1 from the SHF to the Rail Service Improvement Fund.

The bill authorizes the Secretary to transfer moneys in addition to the \$5.0 million required each year from the SHF to the Public Use General Aviation Airport Development Fund. The bill also authorizes the Secretary to transfer moneys from the Public Use General Aviation Airport Development Fund to the SHF. The bill requires the amount remaining in the fund and the amount spent or dedicated for grants in each fiscal year to be not less than \$5 million.

Retailer's Sales and Compensating Use Taxes

The bill amends law to state, starting July 1, 2021, 16.154 percent of the 6.5 percent retailer's sales tax and the same percentage of the compensating use tax shall be levied for the SHF and such tax moneys are to be deposited into the SHF for SHF purposes and for city connecting links.

UTILITIES

Kansas Video Competition Act—Amendments; Senate Sub. for HB 2018

Senate Sub. for HB 2018 amends the Video Competition Act (Act) to prohibit municipalities from imposing additional requirements for the deployment of micro wireless facilities in the public right-of-way and to allow a municipality to require compliance with certain standards.

Definitions

The bill adds the following definitions to the Act:

- “Communications service” means information service or telecommunications service as defined in 47 U.S.C § 153; and
- “Micro wireless facility” means equipment at a fixed location that is:
 - Installed on cables that are owned and operated by a video service provider between utility poles, as defined in KSA 66-2019;
 - Used to provide communications services; and
 - Not larger in dimensions than 24 inches in length, 15 inches in width, and 12 inches in height, and does not have any associated exterior antenna longer than 11½ inches.

The definition of the term “video service” is amended to specify the term will not include any video programming provided by a commercial mobile service provider, as defined in 47 U.S.C § 332(d), unless such programming is determined by the Federal Communications Commission to be cable service.

Changes to Prohibited Activities Under the Act

The bill clarifies which activities a municipality, defined as a city or county under the Act, is prohibited from engaging in regarding the holder of a state-issued video service authorization, and also prohibits a municipality from:

- Imposing any fee, tax, or charge other than any applicable federal and state taxes or the Video Service Provider Fee found in KSA 2019 Supp. 12-2024 [*Note: The bill removes similar language in law that addresses gross tax receipts and fees associated with the Act.*];
- Requiring the holder of a state-issued video service authorization to obtain any additional authorization or license for the provision of communications service over a holder’s network; and
- Requiring a video service provider to make an application or pay any fee, license, tax, or rent for the installation, placement, maintenance, operation, or replacement of a micro wireless facility.

Compliance with Certain Standards for Deployment

The bill authorizes a municipality to require the holder of a state-issued video service authorization to comply with the National Electrical Safety Code and all industry-recognized engineering safety standards.

Clarifications

The bill clarifies that nothing in the Act prohibits a municipality from assessing the Video Service Provider Fee or rates or enforcing any regulations pursuant to law relating to wireless infrastructure siting found in KSA 66-2019.

The bill also clarifies nothing in the bill should be construed to prohibit a cooperative or the owner of a utility pole from setting rates, fees, terms, and conditions of any pole attachment agreement with an authorized video service provider.

The bill amends a provision in the Act governing the requirements of an application for a state-issued video service authorization to add taxes to the list of items with which an applicant must comply.

Utility Rates—Income Tax Exemption, Contract Rates, and Discount Rates; Senate Sub. for HB 2585

Senate Sub. for HB 2585 creates and amends law relating to a tax exemption for the tracking and collection of state and federal income tax by certain public utilities and creates law related to the authority of the Kansas Corporation Commission (KCC) to regulate electric public utility rates to allow contract and discounted rates for certain facilities, as specified below. The KCC is authorized to approve such rates notwithstanding provisions governing its power to require utilities to establish just and reasonable rates to maintain efficient and sufficient electric service and to prohibit variations from established rate schedules.

Income Tax Exemption

The bill exempts the following utilities from Kansas income tax:

- Any utility that is a cooperative, as defined in law, or owned by one or more cooperatives; and
- For tax years ending on or after January 1, 2021, every electric and natural gas public utility, as defined in law, that is subject to rate regulation by the KCC.

The bill prohibits electric and natural gas public utilities subject to rate regulation, not including cooperatives or utilities owned by one or more cooperatives, from being included in a consolidated or unitary combined return, or to collect income tax as a component of retail rates.

Tracking Changes to Income Tax Collection

The bill requires a public utility, as defined in KSA 66-104, that includes expenses related to income taxes as a component of its retail rates to track and defer into a regulatory asset or liability, as appropriate, any overcollection or undercollection of income tax expenses if the income tax rates assessed on a utility are adjusted as a result of any changes in state or federal law.

Application for New Rates

The bill requires a utility to file an application for new retail rates reflecting adjusted income tax rates with the KCC within 60 days of enactment of such a change in state or federal law if the adjustment results in an overcollection or undercollection of income tax expenses that is equal to or exceeds 0.25 percent of a utility's KCC-approved base revenue level from the utility's most recent rate proceeding. The utility is required to refund or collect the tracked amounts from its retail customers in a manner approved by the KCC.

KCC Order

The KCC is required to issue an order addressing an application for adjusted retail rates due to a change in income tax expenses within 120 days. The bill requires the order to, if requested by the utility, give due consideration to the common interests of the utility and its customers, including, but not limited to, the use of a two-year implementation of current period rate changes to maintain the credit quality of the utility by ensuring that any such change in rates would not cause the utility's credit metrics that are traditionally considered by credit rating agencies to deteriorate to a level that could impair the utility's current credit rating.

If a retail rate change to address adjusted income tax expense is implemented over a period of time, the utility is required to track and defer any overcollection or undercollection of income tax expenses as a regulatory liability or asset, as appropriate, that would accrue interest at the utility's weighted cost of capital, as determined by the KCC in the utility's most recent general rate proceeding, and refund or collect the balance in the next full general rate proceeding.

If a utility has a full general rate case pending or has notified the KCC of its intention to file such an application, at the time any adjusted income tax rates become effective, the bill allows the KCC to issue an order finding that such adjusted income tax rates should not be reflected in retail rates until a utility's new retail rates become effective following its general rate proceeding. The bill requires the utility to demonstrate the public interest would be promoted by excluding adjusted income tax rates from its retail rates.

Full Rate Proceeding Clarification

The bill clarifies that a filing resulting from adjusted income tax rates does not require the utility to file a full general rate case or require the utility to update any component of retail rates other than the income tax expense component. The bill provides that rate updates resulting from changes in income tax expenses are not considered a violation of any existing rate moratorium agreement.

Excess Accumulated Deferred Income Tax Balances

The bill requires excess accumulated deferred income tax balances resulting from income taxes adjusted due to changes in state or federal law to remain unamortized on the utility's books of account until new retail rates from its next full general rate proceeding after the adjusted income tax rates take effect, at which time such balances must be amortized and reflected in retail rates.

If requested by the utility, excess accumulated deferred income tax balances resulting from changes in state law effective January 2021 will be amortized into retail rates over a period of not less than 30 years by order of the KCC.

Excess accumulated deferred income tax balances resulting from any other changes in state or federal law are amortized into retail rates by order of the KCC in a manner consistent with requirements of state and federal tax law and relevant regulations and in a manner that will not impair the utility's credit rating.

Municipal and Cooperative Utilities

The bill clarifies that provisions related to adjustments for state or federal income tax expenses will not apply to municipal electric or natural gas utilities or to a cooperative.

Definitions

The bill defines "overcollection or undercollection of income tax expense" as the portion of utility revenue representing the difference between the cost of service as approved by the KCC in the utility's most recent base rate proceeding and the cost of service that would have resulted had the provision for state or federal income taxes been based upon the adjusted corporate income tax rate. The bill specifies that "overcollection or undercollection of income tax expense" does not include the effects of accumulated deferred income taxes or excess accumulated deferred income taxes.

Contract and Discounted Utility Rates

Contract Rates Not Based on Cost of Service to Facility

The bill allows the KCC to approve a contract rate, outside a general rate proceeding, that is not based on the electric public utility's cost of service for a facility, if the KCC:

- Determines such facility would not continue operations, or continue operations that had previously been suspended within the state, and the rate is in the interest of the state based on:
 - The interests of the customers of the utility serving the facility;
 - An evaluation of the incremental cost to serve the facility; and
 - The interests of the citizens of the state generally in promoting economic development, retaining the tax base, keeping employment opportunities in

the state, and other benefits created by approval of the contract rate, as determined by the KCC; and

- Allocates the reduced revenues from the contract rate (as determined by a comparison of the contract rate to the revenues that would have been generated at the retail rate the facility would have paid without such contract rate) to the utility's other non-contract customers through a uniform percentage adjustment. The bill requires the reduced revenues to be applied in the base rates of all customer classes, except the base rates for service provided to customers under any approved contract rate, in each general rate proceeding involving the utility serving the facility.

Contract Rates Based on Incremental Cost of Service to a Facility

The bill allows the KCC to approve a contract rate, outside a general rate proceeding, that is based on the utility's incremental cost of service for a facility, if the KCC:

- Determines the facility would not commence or expand operations in the state without a contract rate;
- Determines the contract rate recovers the incremental cost of providing service to the facility and is in the best interest of the state based on:
 - The interests of the customers of the utility serving the facility;
 - The incremental cost of serving the facility; and
 - The interests of the citizens of the state generally in promoting economic development, expanding the tax base, increasing employment in the state, and other benefits created by approval of the contract rate, as determined by the KCC; and
- Uses the reduction in revenues that result from any contract rate approved by the KCC pursuant to the bill during the rate's effective period for the purposes of determining the utility's revenue requirement in each general rate proceeding concluding after July 1, 2020.

Terms and Renewal

The bill specifies the KCC may approve each type of contract rate for a term of up to ten years, with the ability to renew such rates, upon the utility's application for reapproval. The KCC does not have the authority to modify or eliminate any approved contract rate during the specified term.

Effect on Prior Contract Rates

The provisions of the bill do not affect, or establish standards for approval of, any contract rates approved by the KCC prior to and in effect on July 1, 2020, and do not affect or diminish the KCC's general ratemaking authority to approve just and reasonable contract rates prior to July 1, 2020.

Discounted Rates

The bill authorizes the KCC to approve the implementation of economic development rate schedules providing discounts from standard rates for electric service for new or expanded facilities of industrial or commercial customers that are not in the business of selling or providing goods or services directly to the general public.

Eligibility

To be eligible for discounted rates, the industrial or commercial customer is required to:

- Have incentives from one or more local, regional, state, or federal economic development agencies to locate new or expanded facilities in the utility's certified service territory;
- Qualify for service under the utility's nonresidential and non-lighting rate schedules for a new or expanded facility; and
- Not receive the discount together with service provided by the utility pursuant to any other special contract agreements.

Applicability

The discount authorized by the bill is applicable only to new facilities or expanded facilities that meet the following requirements:

- A peak demand that is reasonably projected to be at least 200 kilowatts within 2 years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in a utility's certified service territory; and
 - Has an annual load factor that is projected to equal or exceed the electric public utility's annual system load factor within two years of the date the customer first receives service under the discounted rate; or
 - Otherwise warrants a discounted rate based on any of the following factors:
 - The number of new permanent full-time jobs created or the percentage increase in existing permanent full-time jobs created;
 - The level of capital investment;
 - Additional off-peak usage;
 - Curtailable or interruptible load;
 - New industry or technology; or
 - Competition with existing industrial customers; or

- A peak demand that is reasonably projected to be at least 300 kilowatts within 2 years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the utility's certified service territory; and
 - An annual load factor that is reasonably projected to be at least 55 percent of the utility's annual system load factor within 2 years of the date the customer first receives service under the discounted rate; and
 - The facility maintains the peak demand and load factor for the remaining duration of the discounted rate.

Calculation of Discount

The discount authorized by the bill is determined by reducing otherwise applicable charges associated with the rate schedule that applies to the new or expanded existing facility by a fixed percentage for each year of service under the discount for a period of up to five years.

The average of the annual discount percentages cannot exceed 20 percent for discounts for facilities that have a projected peak demand of at least 200 kilowatts, but may be between 5 percent and 30 percent in any year. For facilities that have a projected peak demand of at least 300 kilowatts, the average of the annual discount percentages cannot exceed 40 percent, but may be between 20 percent and 50 percent in any year.

In each general rate proceeding concluded after July 1, 2020, the KCC is required to allocate the reduced level of revenues arising from the discounted rates provided by the bill through the application of a uniform percentage adjustment to the revenue requirement responsibility for all customer classes of the utility providing the discounted rate, including the classes with customers that qualify for discounts under the bill, except for contract rates either approved by the KCC pursuant to the bill or its general ratemaking authority.

Tracking Mechanisms and Deferred Regulatory Assets

For both contract rates and discounted rates, the KCC is required to approve a mechanism to track the utility's reductions in revenue as a result of the contract rate or discounted rate from the date the rate becomes effective. The bill requires such reductions in revenue to be deferred to a regulatory asset and accrue interest at the weighted average cost of capital used by the KCC to set the utility's rates in its most recent general rate proceeding. The balance of the regulatory asset is included in the rate base and revenue requirement of the utility in each of its general rate proceedings through an amortization of the balance over a reasonable period until fully collected from the utility's non-contract rate customers.

General Applicability

The bill clarifies provisions related to discounted rates will not apply to those related to contract rates approved by the KCC pursuant to the bill or the KCC's general ratemaking authority in place prior to July 1, 2020.

Definitions

The bill defines various terms for purposes specific to bill provisions regarding contract and discounted utility rates:

- “Electric public utility” has the same meaning as used elsewhere in Chapter 66 of the *Kansas Statutes Annotated*, but does not include any utility that is a cooperative or is owned by one or more such cooperatives;
- “Facility” means an existing or proposed building or buildings of an existing or potential electric customer with existing or expected load equal to, or in excess of, a monthly demand of 50 megawatts, and the load may represent the aggregate demand of multiple meter accounts;
- “Expanded facility” means a separately metered facility of the customer, unless the utility determines the additional costs of separate metering of a facility would exceed the associated benefits or that it would be difficult or impractical to install or read the meter, that has not received service in the electric utility’s certified service territory in the previous 12 months; and
- “New facility” means a building of the customer that has not received electric service in the electric utility’s certified service territory in the previous 12 months.

Status Reports

The bill requires the KCC to provide a status report to the Legislature biennially, starting in January 2023, regarding utilities’ use of contract rates and discounted rates, with the following items included:

- Number of entities with such contract or discounted rates;
- Number of entities with increased load;
- Number of entities with decreased load;
- Aggregate load and change in aggregate load on an annual basis;
- Total subsidy and the subsidy for each individual contract;
- Annual and cumulative rate increase on non-contract rate customers; and
- Estimated economic development impact of entities with contract rates or discounted rates that occurred as a result of such contract rates through an evaluation of the entities’ annual total employment, change in employment, and tax revenue generated.

APPROPRIATIONS BILLS

SB 66 includes adjusted funding for FY 2020 and FY 2021 for state agencies and FY 2020 and FY 2021 capital improvement expenditures for a number of state agencies. The FY 2020 revised budget totals \$18.7 billion, including \$7.8 billion from the State General Fund (SGF). This approved amount includes \$108.7 million of expenditure authority carried forward from FY 2019. The budget increases total expenditures by \$7.1 million, or less than 0.1 percent, and includes an SGF increase of \$6.9 million, or 0.1 percent, above the FY 2020 Governor's recommendation. The FY 2021 approved budget totals \$19.9 billion, including \$8.0 billion from the SGF. The budget is an all funds increase of \$1.2 billion, or 6.4 percent, and an SGF increase of \$192.9 million, or 2.5 percent, above the FY 2020 approved budget.

BILLS VETOED BY THE GOVERNOR

Senate Sub. for HB 2054 This bill would have created and amended law and made appropriations regarding the governmental response to the 2020 COVID-19 pandemic in Kansas.

Its provisions would have included Legislative Coordinating Council oversight of federal coronavirus relief funds received by Kansas; ratification of the COVID-19-related state of disaster emergency declared by the Governor in March 2020; limitations on additional COVID-19-related state of disaster emergencies and the Governor's powers under the Kansas Emergency Management Act (KEMA); limitations on closure or cessation of business or commercial activity under KEMA; additional authority for boards of county commissioners regarding states of local disaster emergencies and orders issued by county health officers; liability limitations for healthcare providers and businesses related to COVID-19; ratification of notarial acts; notifications for first responders regarding the presence of persons testing positive for or under quarantine for COVID-19; requirements for the Kansas Department for Aging and Disability Services related to adult care homes and COVID-19; allowing telemedicine, relaxing certain licensing requirements for various healthcare providers, and relaxing bed and space limitations for hospitals and medical care facilities in response to COVID-19; allowing removal of unconsumed alcoholic liquor from a club or drinking establishment; and making a number of temporary changes to the state unemployment compensation system to respond to COVID-19. Many provisions of the bill would have expired in January 2021. [Note: Similar subject matter was addressed and enacted in Special Session HB 2016.]

HB 2510 This bill would have amended law related to the provision of free ACT exams for Kansas high school students, concurrent and dual enrollment for high school students, and the authority of healing arts school clinics to provide healing arts services. The bill also would have required the creation of a foster care report card, and enacted the Kansas Promise Scholarship Act, and authorized the sale of land by Kansas State University in Saline County.

Senate Sub. for HB 2619 This bill would have established the Kansas Economic Recovery Loan Deposit Program (Program), amended requirements placed on state-chartered credit unions to increase the permissible geographic area for a credit union's field of membership, and authorized a net interest income deduction for financial institutions subject to the Kansas Financial Institutions Privilege Tax, beginning in Tax Year 2022. The State Treasurer would have been authorized to administer the Program, which would have been permitted to utilize up to \$60.0 million in idle State funds.

HB 2702

This bill would have established new notice and public hearing requirements for certain taxing subdivisions, prohibited certain real property valuation increases, provided a one-time delay in the deadline for payment of property taxes, enacted the Taxpayer Protection Act, extended certain income and privilege tax filing and payment deadlines, authorized county treasurers to establish partial payments and payment plans for all property taxes, and provided for county discretion in handling *de minimis* property tax penalty charges.

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2020 Special Session Summary of Legislation

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INTRODUCTION

This publication includes summaries of the legislation enacted by the 2020 Legislature during the Special Session. The Special Session commenced on June 3, and was adjourned on June 4, 2020.

During the 2020 Special Session, 31 bills were introduced: 9 bills in the Senate and 22 bills in the House. One of these bills became law (a House bill). None of these bills will carry over to the regular 2021 Session of the Legislature.

This publication does not include a summary of any legislation associated with the regular 2020 Session. That legislation has been summarized in a separate publication.

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DISASTER RELIEF

Omnibus Governmental Response to 2020 COVID-19 Pandemic; HB 2016

HB 2016 creates and amends law and makes appropriations regarding the governmental response to the coronavirus disease 2019 (COVID-19) 2020 pandemic in Kansas, as follows.

Coronavirus Relief Funds

The bill appropriates the Coronavirus Relief Fund (CRF) in the Office of the Governor to provide relief for the effects of coronavirus in the state of Kansas in both fiscal year (FY) 2020 and FY 2021. Expenditures or transfers from the CRF require an affirmative vote of the Governor and a majority of the legislative members of the State Finance Council (SFC). The bill also permits the SFC to continue approving such requests during the Legislative Session.

In addition to the CRF funds, the bill applies the same approval process described above to any federal funds received under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Families First Coronavirus Response Act (Families First Act), the Paycheck Protection Program and Health Care Enhancement Act, and any other federal law that provides moneys to the state for aid for coronavirus relief. The bill permits any moneys from the federal government for coronavirus relief that are federally required to be deposited in a fund other than the CRF to be credited to such fund; however, uses of those funds are subject to approval by the SFC in the same manner.

The bill renders the provisions of the 2019 and 2020 appropriations bills that provide general authority for the Governor to approve expenditure of federal funds as null and void, as it relates to aid received for the purposes of federal coronavirus relief.

State of Disaster Emergencies, Kansas Emergency Management Act, and Authority of Local Officials

The bill creates and amends law related to state of disaster emergencies and the Kansas Emergency Management Act (KEMA), including the following provisions.

Ratification and Limitation of 2020 State of Disaster Emergencies

The bill creates a section of law ratifying and continuing from March 12, 2020, through September 15, 2020, the COVID-19-related state of disaster emergency declared by the Governor on March 12, 2020; ratified and continued by concurrent resolution through May 1, 2020; declared by proclamation on April 30, 2020; and extended by the SFC through May 26, 2020.

This section also prohibits the Governor from proclaiming any new COVID-19-related state of disaster emergency during 2020, unless the Governor makes specific application to the SFC and such action is approved by an affirmative vote of at least six legislative members of the SFC.

Closure or Cessation of Business or Commercial Activity

The bill creates a section of law effective on and after September 15, 2020, applicable during any state of disaster emergency declared under KEMA, prohibiting the Governor from ordering the closure or cessation of any business or commercial activity (for-profit or not-for-profit) for more than 15 days. At least 24 hours prior to the issuance of such order, the Governor must call a meeting of the SFC to consult with the SFC regarding the conditions necessitating the issuance of the order. After an order or orders have resulted in 15 days of such closures or cessation, the Governor may not order such closure or cessation except, upon specific application by the Governor to the SFC and an affirmative vote of at least six legislative members of the SFC, the Governor may order such closure or cessation of business or commercial activity, as approved by the SFC, for specified periods not to exceed 30 days each.

Any order violating or exceeding these restrictions will not have force and effect of law during the period of a state of disaster emergency and shall be null and void.

The provisions of this section expire on January 26, 2021.

Amendments to KEMA

The bill amends the section of KEMA allowing the Governor to declare a state of disaster emergency to specify this power is subject to the specific limits provided above regarding a COVID-19 new state of disaster emergency in 2020. The bill adds a provision stating the COVID-19 state of disaster emergency shall terminate on September 15, 2020, except when the Legislature is not in session, upon specific application by the Governor to the SFC and an affirmative vote of at least 6 legislative members of the SFC, this state of emergency may be extended for specified periods not to exceed 30 days each. No such extension shall continue past January 26, 2021.

The bill amends the section of KEMA governing the powers of the Governor during a state of disaster emergency to:

- Specify the orders the Governor may issue are to exercise the powers conferred in this section;
- Specify these orders may be issued during the state of disaster emergency ratified by the bill;
- Require the Governor to call a meeting of the SFC within 24 hours of the issuance of any such order, for the purposes of reviewing the order;
- Replace a provision allowing such orders to be ratified by concurrent resolution of the Legislature with a provision declaring such orders null and void after the period of a state of disaster emergency has ended;
- Remove references to proclamations;
- Amend a provision allowing the Governor to perform and exercise other functions, powers, and duties to specify these must be in conformity with the

Kansas Constitution and Bill of Rights and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of this section;

- State the Governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition, or to suspend or limit the sale, dispensing, or transportation of firearms or ammunition pursuant to this section's listing of powers or any other executive authority;
- State, notwithstanding any provision of this section to the contrary and pursuant to the Governor's state of disaster emergency proclamation issued on May 26, 2020, the Governor shall not have the power or authority to restrict businesses from operating or to restrict the movement or gathering of individuals. This provision expires on September 15, 2020;
- State the Governor shall not have the power under KEMA or any other law to alter or modify any provisions of the election laws of Kansas, including, but not limited to, the method by which elections are conducted or the timing of such elections;
- Require each order issued under the authority of this section to specify the provision or provisions by specific reference to each paragraph that confers the power under which the order was issued, and
- Allow the Board of County Commissioners of any county to issue an order relating to public health that contains provisions that are less stringent than the provisions of a statewide executive order issued by the Governor. Any Board of County Commissioners issuing such an order must make the following findings and include them in the order:
 - The Board has consulted with the local health officer or other local health officials regarding the Governor's executive order;
 - Following such consultation, implementation of the full scope of provisions in the Governor's executive order is not necessary to protect the public health and safety of the county; and
 - All other relevant findings to support the Board's decision.

Effective January 26, 2021, the bill returns this section to its previous version, removing the above amendments.

The bill amends the KEMA section making violation of KEMA or of any rule and regulation, lawful order, or proclamation made pursuant to it a class A misdemeanor to:

- Replace a "knowing and willful" intent requirement with "intentionally violates";
- Change the penalty from a class A misdemeanor to a civil penalty of up to \$2,500 per violation, which may be assessed in addition to any other penalty provided by law;

- Direct enforcement of the section through an action brought under Chapter 60 of the *Kansas Statutes Annotated*, by the Attorney General or the county or district attorney in the county in which the violation took place, with any civil penalties recovered by a county or district attorney to be paid into the general fund of the county where the proceedings were instigated; and
- Allow the Attorney General or any county or district attorney to bring an action to enjoin, or to obtain a restraining order, against a person who has violated, is violating, or is otherwise likely to violate KEMA.

Authority of Local Officials

The bill amends a statute governing states of local disaster emergency to allow any state of local disaster emergency declaration to be reviewed, amended, or revoked by the Board of County Commissioners or the governing body of the city, respectively, at a meeting of the governing body.

The bill amends statutes regarding county boards of health and local health officers to clarify and standardize phrasing and to allow any order issued by the county health officer, including orders issued as a result of an executive order of the Governor, and orders on behalf of a county regarding the remediation of any infectious disease, to be reviewed, amended, or revoked by the Board of County Commissioners of the county affected by such order at a meeting of the board. Any order reviewed or amended by the board must include an expiration date set by the Board of County Commissioners and may be amended or revoked at an earlier date by a majority vote of the board. The bill removes provisions requiring payment of compensation out of the county treasury and allowing removal of the local health officer by the Secretary of Health and Environment (Secretary). The bill amends a statute governing home rule powers to prohibit counties from exempting from or effecting changes in these statutes.

School Closure

The bill creates a section of law providing that no executive order issued by the Governor pursuant to KEMA that has the effect of closing public or private school attendance centers in Kansas shall be effective unless and until the order is affirmed by the State Board of Education (SBE) by adoption of a resolution by a majority of the SBE's members. The Governor must submit the proposed executive order to the SBE before issuing the order and, upon receipt, the SBE must meet as soon as reasonably possible to review the order and, if a majority of the SBE's members determine the order is in the best interests of the students in Kansas, to adopt a resolution affirming the order.

COVID-19 Response and Reopening for Business Liability Protection Act

The bill creates the COVID-19 Response and Reopening for Business Liability Protection Act (Liability Protection Act), as follows.

Definitions

The bill defines the following terms: “adult care facility,” “COVID-19,” “COVID-19 claim,” “COVID-19 public health emergency,” “disinfecting or cleaning supplies,” “healthcare provider,” “person,” “personal protective equipment,” “product liability claim,” “public health directives,” and “qualified product.”

Healthcare Provider Immunity

The bill states, notwithstanding any other provision of law except within this section, a healthcare provider is immune from civil liability for damages, administrative fines, or penalties for acts, omissions, healthcare decisions, or the rendering of or the failure to render healthcare services, including services that are altered, delayed, or withheld, as a direct response to any COVID-19 state of disaster emergency under KEMA.

This immunity applies to any claims for damages or liability arising out of or relating to acts, omissions, or healthcare decisions occurring during any state of disaster emergency pursuant to KEMA, related to COVID-19.

This immunity does not apply to civil liability when it is established that the act, omission, or healthcare decision constituted gross negligence or willful, wanton, or reckless conduct. This immunity also does not apply to healthcare services not related to COVID-19 that have not been altered, delayed, or withheld because of the COVID-19 public health emergency. The bill also states this provision applies retroactively to any cause of action accruing on or after March 12, 2020, and prior to the termination of the COVID-19 state of disaster emergency declared pursuant to KEMA.

Business Liability

The bill states that, notwithstanding any other provision of law, a person (or agent of such person) conducting business in Kansas shall be immune from liability in a civil action for a COVID-19 claim if such person was acting pursuant to and in substantial compliance with public health directives applicable to the activity giving rise to the cause of action when the cause of action accrued. This section expires on January 26, 2021, and the bill states this provision applies retroactively to any cause of action accruing on or after March 12, 2020.

Product Liability

The bill states that, notwithstanding any other provision of law, a person who designs, manufactures, labels, sells, distributes, provides, or donates a qualified product in response to the COVID-19 public health emergency shall be immune from liability in a civil action alleging a product liability claim involving the product if any of the above actions were taken at the specific request of or in response to a written order or other directive finding a public need for a qualified product, issued by the Governor, Adjutant General, or Division of Emergency Management, and the damages are not occasioned by willful, wanton, or reckless disregard of a known, substantial, and unnecessary risk that the product would cause serious injury to others. The bill states this provision applies retroactively to any cause of action accruing on or after March 12, 2020.

Adult Care Facilities

The bill states that, notwithstanding any other provision of law, an adult care facility shall have an affirmative defense in a civil action for damages, administrative fines, or penalties for a COVID-19 claim if such facility is acting pursuant to and in substantial compliance with public health directives and the facility:

- Was caused, by the facility's compliance with a statute or rule and regulation, to reaccept a resident who had been removed from the facility for treatment of COVID-19; or
- Treats a resident who has tested positive for COVID-19 in such facility in compliance with a statute or rule and regulation.

This section defines "public health directives." The bill states this provision applies retroactively to any cause of action accruing on or after March 12, 2020, and prior to the termination of the COVID-19 state of disaster emergency declared pursuant to KEMA.

Other Provisions

The bill states that nothing in the Liability Protection Act creates, recognizes, or ratifies a claim or cause of action of any kind; eliminates a required element of any claim; affects workers' compensation law, including the exclusive application of such law; or amends, repeals, alters, or affects any other immunity or limitation of liability. The bill states this provision applies retroactively to any cause of action accruing on or after March 12, 2020.

COVID-19 Contact Tracing Privacy Act

The bill creates the COVID-19 Contact Tracing Privacy Act (Privacy Act), as follows.

The bill states the purpose of the Privacy Act is to protect the privacy of persons whose information is collected through contact tracing and the confidentiality of contact data. "Contact tracing" is defined by the Privacy Act to mean identifying persons who may have been exposed to an infected person for the purpose of containing the spread of COVID-19 by notifying the contact that the contact may have been exposed, should be tested, and should self-quarantine. The Privacy Act also defines "contact," "contact tracer," "COVID-19," "contact data," "infected person," "local health officer," "municipality," "Secretary," and "state" for this purpose.

The bill prohibits the State or any municipality, or any officer or official or agent thereof, from conducting or authorizing contact tracing, except whenever the Secretary or a local health officer determines contact tracing is necessary to perform a public health duty assigned by statute to the official, the Secretary or local health officer may conduct or authorize contact tracing, as provided in the section.

Subject to the availability of appropriations, the Secretary or local health officer may employ, contract for, or engage contact tracers, and persons acting as contact tracers under this authority must meet the qualifications and training prescribed by rules and regulations adopted by the Secretary pursuant to authority provided by the Privacy Act. Until such rules and regulations are adopted, but not later than August 1, 2020, persons acting as contact tracers

may act under the supervision of the Secretary and in compliance with the other provisions of the Privacy Act.

The bill requires each person acting as a contact tracer, before collecting any contact data, to execute under oath, on a form prescribed by rules and regulations of the Secretary, an acknowledgment of familiarity with the Privacy Act and the duties it imposes, including the duty of confidentiality. The state or municipal entity hiring, contracting with, or engaging the contact tracer must maintain a copy of the executed form for not less than one year after the person's duties as a contact tracer end, or pursuant to applicable records retention schedule, whichever is later.

The bill deems a contact tracer employed, contracted, or engaged by the Secretary a state employee under the Kansas Tort Claims Act and a contact tracer employed, contracted, or engaged by a local health officer an employee of the county under the Kansas Tort Claims Act.

The bill prohibits a contact tracer from disclosing the identity of an infected person to a contact, and only contact data specifically authorized by the Secretary pursuant to rules and regulations may be collected as a part of contact tracing. The Secretary, a local health officer, or a contact tracer is prohibited from producing data pursuant to a subpoena unless the subpoena is issued by a court and is accompanied by a valid protective order preventing further disclosure of such information.

The bill requires contact data to be:

- Used only for the purposes of contact tracing and not for any other purpose;
- Confidential and not disclosed, produced in response to any Kansas Open Records Act (KORA) request, or made public, unless the disclosure is necessary to conduct contact tracing; and
- Safely and securely destroyed when no longer necessary for contact tracing, pursuant to rules and regulations of the Secretary.

The bill states participation in contact tracing shall be voluntary, and no contact or infected person shall be compelled to participate in, nor be prohibited from participating in, contact tracing. Any contact or infected person who in good faith discloses to a contact tracer information requested by the contact tracer under authority of the bill is immune from civil, criminal, and administrative liability for such disclosure. No criminal, civil, or administrative liability shall arise against a contact or infected person solely due to the person's failure to cooperate in contact tracing conducted under the bill.

The bill prohibits contact tracing from being conducted through the use of any service or means that uses cellphone location data to identify or track, directly or indirectly, the movement of persons.

The bill states no third party shall be required to collect or maintain data regarding infected persons or contacts for the purpose of contact tracing. Contact tracers are prohibited from obtaining contact data related to an infected person or contact from any third party, except that contact data voluntarily collected or maintained by a third party may be obtained by a contact tracer only if the third party provides such information voluntarily and with the consent of

the infected person or contact whose information is disclosed, or such information is provided pursuant to a valid warrant.

The bill permits a person to bring a civil action to enjoin violations of the Privacy Act, and a knowing violation of the Privacy Act is a class C nonperson misdemeanor. The bill deems contact data to be “personal information” within the meaning of the Kansas Consumer Protection Act statute governing requirements for holders of personal information. These remedies are in addition to each other and to any other available civil or criminal remedies.

The bill requires the Secretary to promulgate rules and regulations to implement, administer, and enforce the provisions of the Privacy Act prior to August 1, 2020.

The provisions of the Privacy Act expire on May 1, 2021.

Validity of Notarial Acts

The bill creates a section of law stating that notarial acts performed by a Kansas notary public while the personal appearance requirements are suspended pursuant to an executive order or other state law shall be valid as if the individual had met the personal appearance requirement, even if the individual failed to do so, as long as the notarial act fulfills all requirements prescribed by the executive order or other state law and all other requirements not relating to personal appearance.

First Responder Notifications

The bill creates a section requiring, during a COVID-19-related state of disaster emergency declared under KEMA, each local health officer to work with first responder agencies operating in the county to share information indicating where a person testing positive for, or under quarantine or isolation due to, COVID-19 resides or can be expected to be present. The bill requires the information to include the person’s address and duration of any quarantine, isolation, or expected recovery period, as determined by the local health officer, and only be used for the purpose of allowing the first responders to be alert to the need for utilizing appropriate personal protective equipment during the response activity.

The bill requires the above information to be provided to the 911 call center serving the address provided and limits the 911 call center to disseminating the information only to first responders responding to the listed address.

The information shall not be a public record and is not subject to KORA. This records provision will expire on July 1, 2025, unless the Legislature reviews and reenacts the provision pursuant to the applicable section of KORA.

Adult Care Homes

The bill creates a section of law requiring the Kansas Department for Aging and Disability Services (KDADS) to take the following actions with regard to adult care homes:

- Promptly, and no later than 90 days following the effective date of the bill, make or cause to be made infection control inspections;

- Provide the necessary personal protective equipment, sanitizing supplies, and testing kits appropriate to the needs of each facility on an ongoing basis, based upon:
 - Current number of residents;
 - Current number of full-time and part-time staff members;
 - Number of residents and staff who have tested positive for COVID-19 in the last 14 days;
 - Ability to separate residents with COVID-19 from non-COVID-19 residents; and
 - Any other factors deemed relevant by the Secretary for Aging and Disability Services; and
- Ensure that infection prevention and control best practices and recommendations based upon guidance from the U.S. Centers for Disease Control and Prevention and the Kansas Department of Health and Environment (KDHE) are adopted and made available publicly.

Health Care

Telemedicine

The bill creates a section of law addressing telemedicine, including the following provisions.

The bill allows a physician to issue a prescription or order administration of medication, including a controlled substance, for a patient, without conducting an in-person examination of the patient.

A physician under quarantine, including self-imposed quarantine, may practice telemedicine.

A physician licensed in another state may practice telemedicine to treat patients in Kansas, if the physician advises the Board of Healing Arts (Board) of such practice in writing and in a manner determined by the Board and the physician holds an unrestricted license to practice medicine and surgery in the other state and is not the subject of any investigation or disciplinary action by the licensing agency. The Board may extend this provision to other healthcare professionals licensed and regulated by the Board as deemed necessary by the Board to address the impacts of COVID-19 and consistent with ensuring patient safety.

The bill requires a physician practicing telemedicine under this section to conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.

The bill specifies this section shall not supersede or otherwise affect the provisions of statutes governing performance of abortions or prohibition of abortions delivered *via* telemedicine.

The section defines “physician” and “telemedicine.” The section expires on January 26, 2021.

Hospitals and Medical Care Facilities

The bill creates a section of law regarding hospital and medical care facility usage, including the following provisions.

The section allows a hospital to admit patients in excess of its number of licensed beds or inconsistent with its licensed classification of beds, to the extent the hospital determines is necessary to treat COVID-19 patients and to separate COVID-19 patients and non-COVID-19 patients. A hospital admitting patients in this manner must notify KDHE as soon as practicable, but prior authorization is not required.

The section allows a hospital to use non-hospital space, including off-campus space, to perform COVID-19 testing, triage, quarantine, or patient care, to the extent the hospital determines is necessary to treat COVID-19 patients and to separate COVID-19 patients and non-COVID-19 patients. The KDHE may impose reasonable safety requirements on such use to maximize the availability of patient care, and non-hospital space used in this manner is deemed to meet the requirements of a statute governing provision of services by a hospital consisting of more than one establishment. A hospital using non-hospital space in this manner must notify KDHE as soon as practicable, but prior authorization is not required.

The section allows a medical care facility to permit healthcare providers authorized to provide healthcare services in Kansas to provide healthcare services at such medical facility without becoming a member of the facility’s medical staff.

“Hospital” and “medical care facility” have the same meanings as in statutes governing hospital and related facility licensing, inspection, and regulation.

The section will expire 120 calendar days after the expiration or termination of the state of disaster emergency proclamation issued by the Governor in response to the COVID-19 public health emergency, or any extension thereof.

Temporary Emergency License

The bill creates a section of law allowing the Board to grant a temporary emergency license to practice any profession licensed, certified, registered, or regulated by the Board to an applicant with qualifications the Board deems sufficient to protect public safety and welfare, within the scope of professional practice authorized by the temporary emergency license, for the purpose of preparing for, responding to, or mitigating any effect of COVID-19.

The section expires on January 26, 2021.

Temporary Licensure Measures for Additional Healthcare Providers

The bill creates a section of law, notwithstanding any applicable law to the contrary, allowing physician assistants (PAs) to provide healthcare services appropriate to such provider’s education, training, and experience within a designated healthcare facility at which the PA is

employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without a written agreement with a supervising physician and the PA shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of the lack of such written agreement.

The bill also allows advanced practice registered nurses (APRNs) and nurse anesthetists to provide healthcare services appropriate to each provider's education, training, and experience within a designated healthcare facility at which the provider is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without direction and supervision from a responsible physician. APRNs and nurse anesthetists providing health care under the provisions of this section shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of a lack of direction and supervision from a responsible physician.

Licensed practical nurses (LPNs) are allowed to provide healthcare services appropriate to such provider's education, training, and experience within a designated healthcare facility at which the LPN is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without direction from a registered professional nurse (RN), and the LPN shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of such LPN's lack of supervision from an RN. The bill allows an RN or LPN to order the collection of throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19 for purposes of testing.

The bill allows licensed pharmacists to provide care for routine health maintenance, chronic disease states, or similar conditions appropriate to such pharmacist's education, training, and experience within a designated healthcare facility at which the pharmacist is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without a collaborative practice agreement with a physician, and the pharmacist shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of such pharmacist's lack of collaborative practice agreement with a physician.

The bill allows a RN or LPN who holds a license that is exempt, inactive, or has lapsed within the past five years from the effective date of the bill to provide healthcare services appropriate to the nurse's education, training, and experience, and the RN or LPN shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of such nurse's exempt, inactive, or lapsed license.

The bill authorizes a designated healthcare facility, as necessary to support the facility's response to the COVID-19 pandemic, to:

- Allow a student who is enrolled in a program to become a licensed, registered, or certified healthcare professional to volunteer for work within such facility in roles that are appropriate to such student's education, training, and experience;
- Allow a licensed, registered, or certified healthcare professional or emergency medical personnel serving in the military in any duty status to volunteer or work within such facility in roles that are appropriate to such military service member's education, training, and experience; and
- Allow a medical student, physical therapist, or emergency medical services provider to volunteer or work within such facility as a respiratory therapist

extender under the supervision of a physician, respiratory therapist, or APRN. Such respiratory therapist extender is allowed to assist respiratory therapists and other healthcare professionals in the operation of ventilators and related devices and provide other healthcare services appropriate to such provider's education, training, and experience, as determined by the facility in consultation with such facility's medical leadership.

The bill allows a healthcare professional licensed and in good standing in another state to practice such profession in the state of Kansas. A license that has been suspended or revoked or a licensee who is subject to pending license-related disciplinary action is not considered to be in good standing. Any license that is subject to limitation in another state will be subject to the same limitation in the state of Kansas. Such healthcare professional shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of such healthcare professional's lack of licensure in the state of Kansas.

The bill allows, subject to any terms and conditions established by the Secretary, a designated healthcare facility to use a qualified volunteer or qualified personnel affiliated with any other designated healthcare facility as if such volunteer or personnel was affiliated with the facility using such volunteer or personnel.

The bill allows a healthcare professional to be licensed, certified, or registered or to have such license, certification, or registration reinstated within five years of lapse or renewed by the applicable licensing agency of the state of Kansas without satisfying the following conditions of licensure, certification, or registration:

- An examination, if such examination's administration has been canceled while the state of disaster emergency proclamation issued by the Governor in response to the COVID-19 pandemic is in effect;
- Fingerprinting;
- Continuing education; and
- Payment of a fee.

The bill provides that a professional certification in basic life support, advanced cardiac life support, or first aid shall remain valid if such professional certification is due to expire or be canceled while the state of disaster emergency proclamation issued by the Governor in response to the COVID-19 pandemic is in effect.

Fingerprinting of individuals is not required as a condition of licensure and certification for any hospital, adult care home, county medical care facility, or psychiatric hospital.

The bill states "appropriate to such professional's education, training and experience," or words of like effect, shall be determined by the designated healthcare facility in consultation with such facility's medical leadership and defines "designated healthcare facility."

The provisions of the section expire on January 26, 2021.

Critical Access Hospitals

The bill amends the definition of “critical access hospital” in a statute governing rural health networks to add a provision stating that, prior to June 30, 2021, to the extent a critical access hospital determines it is necessary to treat COVID-19 patients or to separate COVID-19 patients and non-COVID-19 patients, the hospital is not limited to 25 beds, and a facility with an approved swing bed agreement is not limited to a combined total of 25 extended care and acute care beds or limited to providing acute inpatient care for a period of time that does not exceed, on an annual average basis, 96 hours per patient.

Court Videoconferencing

The bill amends a provision enacted in 2020 House Sub. for SB 102 that allows the Chief Justice of the Kansas Supreme Court to issue an order authorizing the use of two-way electronic audio-visual communication (videoconferencing) in any court proceeding, when the Chief Justice determines such action is necessary to secure the health and safety of court users, staff, and judicial officers, by removing language limiting application of this provision to periods during any state of disaster emergency under KEMA. [Note: Under continuing law, the provisions of this section expire on March 31, 2021.]

Sale of Alcoholic Liquor

The bill amends the statute governing removal of unconsumed alcoholic liquor from premises of a club or drinking establishment to allow legal patrons to remove from the licensed premises one or more containers of alcoholic liquor not in the original container, subject to the following conditions:

- It must be legal for the licensee to sell the alcoholic liquor;
- Each container of alcoholic liquor must have been purchased by a patron on the licensed premises;
- The licensee or the licensee’s employee must provide the patron with a dated receipt for the alcoholic liquor; and
- Before the container of alcoholic liquor is removed from the licensed premises, the licensee or the licensee’s employee must place the container in a transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened.

These provisions expire on January 26, 2021.

Unemployment Compensation

The bill makes a number of temporary changes to the state unemployment compensation system in response to the COVID-19 pandemic.

The bill includes a policy statement that Kansas is committed to maintaining and strengthening access to its unemployment compensation system.

The bill provides that a claimant is not ineligible for benefits on the basis of not actively seeking work during a disaster emergency proclaimed by the Governor and in response to the spread of COVID-19 and the State has temporarily waived the work search requirement in compliance with the Families First Act.

Additionally, the bill waives the waiting week requirement for new claims filed from April 5, 2020, through December 26, 2020, in accordance with the Families First Act and the CARES Act.

The bill requires employers to provide any notifications to individuals in the service of the employer as required by the Secretary of Labor pursuant to the Families First Act.

For calendar year 2021, the bill limits unemployment contribution rates for employers to the standard rate schedule and prohibits an additional solvency adjustment.

The bill provides that benefits paid as a result of employees being discharged by an employer directly impacted by COVID-19 in accordance with the Families First Act will not be charged to the account of the contributing employer.

Under the bill, payments of unemployment compensation that are wholly reimbursed to a reimbursing employer by the federal government shall be charged for the purpose of such reimbursement under the CARES Act.

The bill also eliminates provisions prohibiting negative account employers from participating in shared work plans, but provides that shared work plans may be approved only if the Secretary of Labor determines the contributing employer does not adversely impact the State's eligibility under Section 2108 of the CARES Act, which provides for federal reimbursement of certain shared work plan payments.

Severability Clause

The bill includes a severability provision stating if any portion of the act or application thereof to any person or circumstance is declared unconstitutional or invalid, such invalidity shall not affect other portions that can be given effect without the invalid portion or application, and such other portions shall remain valid and enforceable.